

PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

14 November 2025

Dear Hon. Michelle Rowland,

Submission to the Attorney-General's Department's Disability Discrimination Act Review Consultation

We thank the Attorney-General's Department for the opportunity to contribute to the review of the *Disability Discrimination Act 1992* (DDA).

This submission has been prepared by the [National Advocacy Collective \(NAC\), a national network of parents with an intellectual disability, people with disability, advocates, researchers, allies and supporters](#) advocating for the rights of parents with intellectual disability and their families.

Our submission draws on lived experience, long-standing advocacy, and extensive evidence before the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the Disability Royal Commission). It reflects the urgent need for a stronger DDA that works as an effective mechanism to prevent and eliminate discrimination, not only to respond to it after harm has occurred.

Our submission also includes quotes from a parent with lived experience – these are italicised throughout this document.

We believe the DDA should play a central role in addressing the systemic and widespread discrimination faced by parents with disability – particularly parents with intellectual disability – across all systems including child protection, health, social security, employment, and family support services.

While we strongly support efforts to modernise and strengthen the DDA, we also believe this should be understood as a first step on the path towards a national Human Rights Act that embeds specific protections for people with disability within a broader human rights framework. This approach affirms that human rights are indivisible and interdependent, ensuring people with disability are protected alongside other marginalised groups and that intersectional discrimination is properly addressed.

Without a strong, enforceable legislative framework, widespread discrimination will continue to deny many parents their fundamental rights, perpetuating inequality across generations and costing governments billions of dollars.

Background

Parenting is a fundamental and ordinary part of life for millions of Australians. All parents need support at different times, but parents with disability – especially parents with intellectual disability and First Nations parents – disproportionately experience widespread barriers, stigma, and discrimination that result in devastating outcomes for families and communities, including what researchers have described as “obstetric violence”.¹

The Disability Royal Commission heard extensive evidence of systemic failings and discrimination within child protection systems. Advocates across Australia reported that parents with disability frequently have their children removed without clear, verifiable evidence of risk. Decisions are frequently made based on bias,

¹ Libesman, T. et al. (2023). Parents with Disability and their Experiences of Child Protection Systems, Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. Retrieved from: <https://disability.royalcommission.gov.au/system/files/2023-07/Research%20Report%20%20Parents%20with%20disability%20and%20their%20experiences%20of%20child%20protection%20systems.pdf>

misunderstanding, or lack of appropriate support rather than on evidence of harm.² Disappointingly, the Disability Royal Commission failed to make recommendations to address this situation.³

Parents with intellectual disability are said to make up only around 0.4% of all parents in Australia (approximately 21,000 people).⁴ However, this is likely to under-report true prevalence, as people with mild or borderline intellectual disability are often absent from disability datasets.⁵ What is clear is that parents with intellectual disability are dramatically overrepresented in child protection proceedings and child removals in Australia and elsewhere.⁶ There is a significant cost associated with the over-representation of people with disability in child protection systems (both parents and children), which is estimated to cost the Government \$2.8 billion per year.⁷

These outcomes breach Australia's obligations under the UN Convention on the Rights of Persons with Disabilities (UNCRPD) – particularly:

- Article 12 (Equal recognition before the law), affirming the right to make decisions about one's own life; and
- Article 23 (Respect for home and the family), requiring States to eliminate discrimination in all matters relating to parenthood and to provide the means necessary to support parents with disability.

"I am a mum with a disability. I have rights to raise my children in my home with support and help. They should not be raised by strangers in the system."

They also conflict with the UN Convention on the Rights of the Child, which affirms that children have the right to live with their parents unless separation is in the child's best interests and determined through lawful, fair processes.

Despite these clear obligations, the rights of parents with intellectual disability continue to be denied. This community faces pervasive discrimination, lack of accessible and tailored support, and widespread negative attitudes that equate disability with risk or incompetence.⁸

² Spencer, M., Tarleton, B., Collings, S., McIntyre, G., & Turney, D. (2024). If We Know What Works, Why Aren't We Doing It? *The British Journal of Social Work*, 54, 2808–2825, <https://doi.org/10.1093/bjsw/bcae080>;

Llewellyn, G., McConnell, D., & Ferronato, L. (2003). Prevalence and outcomes for parents with disabilities and their children in an Australian court sample. *Child Abuse and Neglect*, 27(3), 235-251;

McConnell, D. (2008). Parents labelled with Intellectual Disability: Position of the IASSID SIRG on Parents and Parenting with Intellectual Disabilities. *Journal of Applied Research in Intellectual Disabilities* 21(4): 296-307 DOI:[10.1111/j.1468-3148.2008.00435.x](https://doi.org/10.1111/j.1468-3148.2008.00435.x);

³ Collings, S; Spencer, M & Mills, R. (2024). A lost opportunity: Did the Disability Royal Commission let down parents with intellectual disability and their children? *Research and Practice in Intellectual and Developmental Disabilities*. 11(2), 211–224.

<https://doi.org/10.1080/23297018.2024.2384047>.

⁴ Man, W., Wade, C., & Llewellyn, G. (2017). Prevalence of parents with intellectual disabilities in Australia. *Journal of Intellectual & Developmental Disability*, 42(2) 173-179. doi: 10.3109/13668250.2016.1218448.

⁵ Rosencrans et al. (2021). Invisible populations: Who is missing from research in ID? *RIDD*, 119104117.

⁶ Callow E., and Jacob, J. (2014). Parental disability in child welfare systems and dependency courts: Preliminary research on the prevalence of the population. *Child Welfare* 93 (6), pp 73–92;

Lima et al. (2022). Child protection involvement of children of mothers with intellectual disability. *Child Abuse & Neglect*, 126 10.1016/j.chiabu.2022.105515.

⁷ Vincent, J., et al. (2022). Research Report - The economic cost of violence, abuse, neglect and exploitation of people with disability. Taylor Fry. Page 9. Retrieved from:

<https://disability.royalcommission.gov.au/system/files/202309/Research%20Report%20%20Economic%20cost%20of%20violence%20and%20abuse%20and%20neglect%20and%20exploitation%20of%20people%20with%20disability.pdf>.

⁸ Libesman, T. et al. (2023). Parents with Disability and their Experiences of Child Protection Systems, Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. Retrieved from:

<https://disability.royalcommission.gov.au/system/files/2023-07/Research%20Report%20Parents%20with%20disability%20and%20their%20experiences%20of%20child%20protection%20systems.pdf>

For example, research conducted as part of a 2022 study⁹ which included interviews with mothers with intellectual disability demonstrate some of the attitudinal and systemic barriers they faced when dealing with child protection:

- One mother with an intellectual disability was not appropriately represented at the prenatal meetings (with child protection) because of a lack of support from her legal guardian. The mother explained that the guardian's said: 'that it is not my job to fight the department'. The legal guardian dealt directly with the lawyers, and the mother had no voice in the process.
- A lack of transparency and inflexibility in the decisions made by the Department (Child Protection) was reported by a mother with an intellectual disability. Initially, a pre-birth plan with the hospital social worker and Department caseworker was arranged for this mother to have 5 days in hospital with the baby and a week in a supported placement to assist her with her parenting skills and assess her capacity to parent that was then changed.
- This issue was significant for a mother with an intellectual disability, who stated: 'if you have got disabilities, you have the right to have a family'. This mother planned to use her NDIS funds for a parent educator to work with her so she could have supervised visits with her children at home, but this was denied by the Department.

The DDA should be a key safeguard against these and other forms of discrimination, but in its current form it is reactive, limited, and largely ineffective at addressing systemic bias in government systems such as child protection, justice and legal systems, and policing. A stronger DDA is needed to reduce and eliminate the widespread systemic discrimination experienced by parents with an intellectual disability.

"[frontline workers] judged me, discriminated against me ... I was taken to an abortion clinic. They took me to court. I was ordered to terminate my pregnancy. I was given no support afterward."

Our recommendations

1. Ensure the definition of disability includes people without a formal diagnosis.

The definition of disability in the DDA must recognise that many people face barriers to obtaining a formal diagnosis, particularly people with an intellectual disability. People with mild or borderline intellectual disability may not identify as having a disability or may not have access to assessment or documentation to gain an official diagnosis. At the same time, they may have clear support needs that must be understood through a disability lens. The definition of disability therefore plays a critical role in ensuring that legal protections and remedies are available to all people who experience disability-related barriers, not only those with a formal or recognised diagnosis.¹⁰

2. Ensure the DDA clearly applies to all settings in which parents with intellectual disability are likely to engage, including social security systems and all child and family services. Amend the definition of services to explicitly include all legal and justice-like settings including policing and child protection systems.

Parents with intellectual disability face entrenched discrimination within justice and legal systems, including child protection systems. Courts have narrowly interpreted the DDA's definition of "services", leaving gaps where discriminatory treatment by police, child protection, courts, corrective services and other legal settings cannot be effectively challenged.

"When you are involved with child protection you are always under surveillance. They treat you like a criminal because you are a woman with a disability and she had children ... parents with disabilities are treated like second-class citizens by child safety."

"We should not be punished for having a disability."

⁹ Trew, S., Taplin, S., O'Donnell, M., Marriott, R., and Broadhurst, K. 2022. Parents' experiences with child protection during pregnancy and post-birth. *Child and Family Social Work*. 28: 549-562. DOI: 10.1111/cfs.12984

¹⁰ Rosencrans et al. (2021). Invisible populations: Who is missing from research in ID? *RIDD*, 119104117.

We recommend:

- a. Amending the DDA to explicitly include services provided by child protection agencies, courts and policing within the definition of “services” (consistent with Recommendation 8.17 of the Disability Royal Commission in relation to policing);
- b. Creating a distinct statutory duty that applies to the exercise of statutory functions and powers under Federal, State and Territory law, ensuring these systems are held accountable under the DDA;
- c. Embedding mandatory, lived-experience-led training for justice and child protection practitioners to build capacity in understanding and supporting this community and challenging discriminatory attitudes and practices;
- d. Expanding Australian Human Rights Commission (AHRC) powers and resources to undertake own-motion investigations into systemic discrimination; and
- e. Ensuring that protection under the DDA does not depend on formal diagnosis, but on the presence of disability-related barriers or support needs. The definition of disability should be amended to reflect this.

These reforms would make visible the rights of parents and families who are currently rendered invisible and would create a pathway to systemic change.

3. Introduce a positive duty to eliminate discrimination.

The current DDA operates primarily as a complaints-based mechanism. This approach places the burden on individuals to identify, lodge, and prove discrimination – something that is highly inaccessible, emotionally harrowing and distressing for many people with an intellectual disability, including parents, without extensive advocacy and legal support.

Welfare services (including Centrelink) and health services (including hospitals) are also common settings where parents with intellectual disability experience discrimination. In these environments, discriminatory attitudes and practices often stem from misguided assumptions about a person’s capacity to parent. Parents are frequently subject to heightened scrutiny, exclusion from decision-making, and discriminatory interventions by frontline workers. These interactions can have devastating consequences – for example, hospitals are for many the point at which parents first come into contact with child protection systems or where child removal occurs.

“I’m a mum with disability speaking the truth my whole life destroyed by failed courts and child protection.”

A positive duty would shift Australia’s discrimination law from a reactive system to a preventative framework, requiring organisations and governments to take proactive steps to prevent discrimination before it occurs.

We recommend:

- a. Introducing a positive duty which applies to all duty holders under the DDA, including government agencies, courts, healthcare settings, police, and child protection services;
- b. Supporting implementation of a positive duty through targeted education, accessible resources, and co-designed guidance for implementation – with a focus on supporting the rights of parents with an intellectual disability – which should be designed and delivered by parents with an intellectual disability and their supporters, who must be fairly remunerated for their expertise;
- c. Providing enforcement powers for the AHRC, including compliance notices, systemic investigations, and civil penalties; and
- d. Including periodic reviews to ensure ongoing effectiveness.

4. Strengthen the duty to provide adjustments

The principle of *reasonable adjustments* is central to equality under the DDA. However, in practice, it is inconsistently understood, weakly enforced, and too often dependent on the goodwill of individual duty holders. This creates significant gaps in protection for parents with disability – particularly parents with an intellectual disability – who are often excluded from support services because (but not solely due to) adjustments are refused or not meaningfully discussed.

“[Frontline workers] are not trained to support parents with disabilities.”

Relatedly, the current *unjustifiable hardship* provision does not require duty holders to consult with the person with disability (or their family or supporter) about what adjustments may be appropriate or necessary, including the provision of accessible information or supported decision-making. This means decisions can be made without a full understanding of the person’s circumstances or the impact on their life. It also allows adjustments to be refused without considering whether alternative options might have been available.

Reforms to strengthen these provisions are urgently needed. We recommend:

- a. Creating a stand-alone duty to provide adjustments to make it unlawful for a duty holder to fail or refuse to make an adjustment unless doing so would impose unjustifiable hardship. Such a provision would clarify obligations and create a direct legal ground for people with disability to challenge a failure to provide adjustments.
- b. Requiring consultation when determining whether an adjustment would impose unjustifiable hardship. Decision-makers must take into account:
 - i. the extent to which the person with disability and, where appropriate, their family or supporter, were consulted and provide accessible options for undertaking this consultation; and
 - ii. whether alternative adjustments were available that could reduce hardship for the duty holder while still supporting inclusion.
- c. Mandating consideration of alternatives to ensure duty holders are required to actively explore alternative or flexible approaches before refusing an adjustment request.

Strengthening these provisions would help to build a proactive culture of rights across systems in which discrimination is rife, especially for parents with an intellectual disability. It would move the DDA closer to its original intent, ensuring that parents with an intellectual disability are not excluded simply because services and systems choose not to take simple, practical steps that would enable full and just participation.

Thank you for considering our submission, we warmly welcome further conversations with the Department about the issues raised here and look forward to reviewing the Exposure Draft of the proposed legislative changes when it is available.

We would be delighted to speak further with you or your team about the issues raised in this submission. Inclusion Australia provides secretariat support to the NAC and can be contacted via:

policy@inclusionaustralia.org.au

Sincerely,

The National Advocacy Collective (NAC) – Supporting the rights of parents with an intellectual disability.

A current list of members is included on page 6 of this submission.

National Advocacy Collective (NAC) members

Parents with intellectual disability are central to the NAC's work. Parents across different states and territories take part in NAC meetings and advocacy work as part of NAC member organisations or representing themselves.

ACT

ACT Disability and Aged Care Services (ADACAS)

ACT Down Syndrome & Intellectual Disability

NSW

Family Inclusion Strategies in the Hunter (FISH)

Family Inclusion Network, Southeast Queensland

Life Without Barriers

Intellectual Disability Rights Service (IDRS)

Prof. Iva Strnadová, UNSW

NSW Council for Intellectual Disability (CID)

Dr Susan Collings, Western Sydney University

Dr Margaret Spencer, University of Sydney

Northern Territory

Inclusion Northern Territory Disability Advocacy Service

Queensland

Community Living Association

Family Inclusion Network (FIN) Southeast Queensland

Dr Kathy Ellem, University of Queensland (UQ)

Linda McKey: Family Support Services

Moreton Bay Ability

Parent2Parent QLD

Queensland Disability Network

Queensland Independent Disability Advocacy Network (QIDAN)

South Australia

South Australian Council on Intellectual Disability (SACID)

Tasmania

Speak Out Advocacy

Victoria

Independent Family Advocacy and Support (IFAS), Victoria Legal Aid

Dr Kathleen Fitt, RMIT

Powerful Parents (PPP)

Victorian Advocacy League for Individuals with Disability (VALID)

STAR Victoria

WA

Developmental Disability WA (DDWA)

Dr Melissa O'Donnell, Australian Centre for Child Protection, University of South Australia

National

First Peoples Disability Network (FPDN)

Inclusion Australia

Women With Disabilities Australia (WWDA)