



**Working Women's
Centre Vic.**

Submission to Attorney - General's Department

Review of the Disability Discrimination Act

14 November 2025

Acknowledgement of Country

Working Women's Centre Victoria works would like to acknowledge the First Peoples of the lands across Victoria that we work on. We acknowledge their role as custodians of Country and pay our respects to their Elders, lores, customs and creation spirits.

We acknowledge the way Australia's colonial legal and justice system continues to disproportionately harm Aboriginal and Torres Strait Islander people. We commit to working in allyship with Aboriginal and Torres Strait organisations and communities to dismantle systems of marginalisation and discrimination.

Sovereignty was never ceded. This land always was, always will be, Aboriginal land.

About Working Women's Centre Victoria

Working Women's Centre Victoria (WWCVic) is a not-for-profit partnership that provides holistic, trauma-informed services to women and non-binary people who experience workplace sexual harassment and other workplace issues.

The WWCVic is a collaborative partnership formed by four community legal centres with significant expertise and experience in employment, discrimination and sexual harassment law, as well as training, capacity building and law reform advocacy: South-East Monash Legal Service (SMLS), Women's Legal Service Victoria (Women's Legal), Westjustice, and Northern Community Legal Centre (Northern CLC).

Together, we aim to provide comprehensive support for working women and non-binary people across Victoria. Each partner brings extensive expertise in legal assistance, community development, law reform, training, advocacy, and a shared commitment to social justice.

SMLS leads the partnership, but all four centres collaborate to deliver services, conduct training, and achieve strategic objectives.

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Our Services

At the WWCVic, we offer a range of free services to support working women and non-binary people in Victoria:

- **Advice and Information:** We can provide legal advice and information about workplace issues like sexual harassment and discrimination.
- **Representation and Advocacy:** We support and represent women and non-binary individuals in mediations, tribunals, and courts if they have faced workplace issues such as sexual harassment.
- **Education and Training:** We provide training for workers, the community, and businesses to raise awareness of people's rights and create safe, supportive workplaces.
- **Sexual Harassment Prevention and Law Reform:** We collaborate with our peak body, Working Women's Centre Australia, and other organisations across Australia to promote gender equality and eliminate gendered workplace violence, including sexual harassment. We make submissions to inquiries and



contribute to driving change in workplace laws and systems in Victoria.

Our specialist lawyers support women and non-binary people with a variety of workplace-related matters including:

- Sexual harassment
- Discrimination
- Wage theft
- Unfair dismissal
- Sham contracting
- Workplace entitlements
- Parental leave
- Accessing family violence leave at work
- Discrimination
- Workplace bullying

Our Commitment

The WWCVic provides holistic, trauma-informed services that are accessible to all working women and non-binary individuals, particularly those from culturally and racially marginalised (CARM) backgrounds, Aboriginal and Torres Strait Islander communities, non-binary, trans and intersex people, young women, women with disabilities, and those in rural or remote locations. We ensure our services are delivered place-based with outreach activities where needed, promoting accessibility across Victoria.

Additionally, we work collaboratively with other services and organisations to create effective referral pathways, ensuring comprehensive support for our clients. By partnering with the national body and other working women's centres, we coordinate service delivery and promote gender equality and the prevention of sexual harassment on a broader scale.

All women can access advice and information, and we aim to ensure we are accessible to women and non-binary people who are at most significant risk of discrimination and harm in the workplace. This includes people experiencing family violence, people with a disability, migrant workers, international students, casual workers, trans and gender diverse people and young workers in unstable employment.

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This submission was prepared by Jennifer Jones (Westjustice /WWCVic Western Agency), Roj Amedi and Jessica Lintermans (Women's Legal).



Executive Summary

WWCVic welcomes the opportunity to contribute to the review of the *Disability Discrimination Act 1992* (Cth) (DDA). As a specialist service supporting women and non-binary workers across Victoria, we bring vital frontline evidence on how disability discrimination intersects with gender-based disadvantage in employment. Our workplaces us in a unique position to represent those most at risk of discrimination and harm in the workplace.

The Review represents a pivotal opportunity to move from a reactive, complaint-based model toward proactive, systemic prevention. Women, non-binary, and gender-diverse people with disabilities experience compounded disadvantage - including lower workforce participation, wider pay gaps, higher rates of insecure work, and elevated exposure to workplace harassment. These risks are further intensified for migrant women, young workers, and those with caring responsibilities.

Our casework consistently shows that discrimination on the basis of disability and gender is deeply intertwined, yet current legal frameworks require workers to address these issues separately. This fragmentation creates barriers to justice and fails to reflect the lived reality of how discrimination occurs.

WWCVic's DDA Reform Priorities

What Must Change

1. Introduce a Positive Duty

- a. Embed a proactive legal obligation on all duty holders under the DDA to eliminate disability discrimination, vilification and harassment, and promote inclusion and proactive provision of adjustments. The positive duty can be modelled on the *Sex Discrimination Act 1984* (Cth) and *Equal Opportunity Act 2010* (Vic) and should require duty holders to undertake systemic risk assessments and preventative measures, shifting responsibility from individual complainants. The positive duty should extend to protecting disabled service providers (such as women with disability in healthcare, education and frontline roles) who face discrimination from clients, patients or students, recognising the heightened intersectional risks for workers who are also migrant, young, or casually employed.
- b. Empower the Australian Human Rights Commission (AHRC) with strong oversight powers to monitor and enforce positive duty compliance. While education and support through clear enforceable guidelines are important, the AHRC must be able to take proportionate enforcement action where systemic or serious breaches occur. This includes the capacity and resourcing to monitor compliance with the Act, conduct own-motion investigations, compel attendance and production of information for investigations, pursue enforcement action in court, and issue compliance notices.
- c. The DDA must allow representative actions by parties such as working women's centres, unions, community legal centres and advocates to address structural discrimination and promote broader systemic accountability. This would reduce the burden and power inequalities faced by individuals unable to bring their own claims.



2. Explicitly Recognise Intersectionality and Expand Definitions

- a. The DDA must expressly recognise intersectional discrimination, ensuring that protections and remedies address compounding disadvantage across gender, race, age, migration status, sexuality, disability, and other attributes. Currently, Australian anti-discrimination laws generally assess claims on a single-ground basis, which does not reflect how discrimination is often experienced in real life.
- b. Recognising intersectionality would allow the DDA to properly address systemic drivers of inequality - such as entrenched power imbalances, structural barriers, and cultural norms - rather than treating discrimination as isolated factors. The DDA must distinguish between intersectional discrimination (overlapping systems of oppression like ableism, sexism, and racism that create mutually reinforcing disadvantage) and multiple disabilities (having more than one impairment), ensuring neither concept is lost.
- c. To achieve this, the DDA should include a definition of intersectional discrimination in its Objects or Interpretation section, clarify that this is separate from the definition of disability, expressly allow claims to be brought on the basis of multiple or combined protected attributes and provide regulatory and judicial guidance to the AHRC, courts, and duty holders.

3. Include Safeguards in Discrimination Tests and Adjustments

- a. The tests for direct and indirect discrimination must be made simpler and more accessible to women with disabilities seeking to enforce their rights.
 - i. The definition of direct discrimination should utilise an 'unfavourable' test, remove the comparator test, and ensure the onus rests on the respondent to prove on the balance of probabilities that the reason for the unfavourable treatment was not disability. This ensures that the burden is placed with the party with the relevant information.
 - ii. The language of 'does not or would not comply' should be removed from the definition of indirect discrimination, and the reasonableness element should be removed, in favour of simply relying on the existing defences such as unjustifiable hardship.
- b. The DDA should include a standalone right to adjustments and associated duty on duty holders to provide adjustments— removing the current 'Reasonable adjustments' provisions within direct and indirect discrimination, and with the standalone right limited only by 'unjustifiable hardship'. This standalone right should be limited only by a strengthened definition of unjustifiable hardship, ensuring that duty holders cannot rely on inconvenience, administrative burden, or assumptions to avoid making adjustments.
- c. Any reforms to the direct and indirect discrimination tests must include gendered safeguards. Women with disability are disproportionately affected by indirect discrimination because their needs often intersect with gendered roles and responsibilities. For example, combining disability with caring responsibilities or requiring adjustments linked to reproductive health. Without safeguards, duty holders could justify exclusionary practices as 'legitimate aims' (such as inflexible rostering for efficiency) even where less discriminatory alternatives exist. This is particularly concerning for women with disability who need flexible hours, remote work, or modified duties to balance disability and caring.
- d. Safeguards that should be included in the definition of 'unjustifiable hardship' (or another appropriate place in the DDA) to ensure that Duty Holders must be required to:
 - i. consult with the person affected when deciding on adjustments, taking into account gendered aspects of disability such as caring and reproductive health needs;
 - ii. be required to consider alternatives which might meet the same goals as any proposed adjustment by a person;
 - iii. provide a written response to a request for adjustments within a specified period of time, similar to the process for requesting flexible work arrangements in the *Fair Work Act 2009*

- (Cth) providing real evidence for their refusal rather than relying on assumptions or stereotypes;
- iv. create and retain all documents recording the consideration of the request, factors considered, evidence of risk assessments and assessments of inherent requirements, and provide those records to the person affected on request without cost, within a set period of time (such as 5 business days).
 - v. duty holders must also ensure fair assessment of inherent requirements by:
 - 1. defining inherent requirements at the job-design stage;
 - 2. distinguishing core from non-essential tasks;
 - 3. engaging in genuine consultation and functional assessment; and
 - 4. making decisions based on evidence, not assumptions or stereotypes.
 - vi. The DDA should also include that failure to provide reasonable adjustments constitutes discrimination unless the duty holder can demonstrate unjustifiable hardship.

4. Ensure the definition of disability is broad and inclusive

- a. The definition of disability must be updated to remove outdated and medicalised language such as malfunction, malformation, and disfigurement. Neutral rights-based language which recognises the lived experience of people with disabilities must be used that reflects contemporary understanding of disability. Importantly, the terminology should be co-designed with people with disability and First Nations people recognising that Aboriginal and Torres-Strait Islander communities experience disability discrimination at higher rates due to compounding impacts of racism, colonisation and discrimination.
- b. The definition must also be broad enough to cover episodic, invisible, chronic, reproductive and psychosocial conditions, and conditions or experiences that affect a person's health but which might not have a formal diagnosis or which relate more generally to their health status or medical records.
- c. We are particularly concerned that the definition of disability must cover the health impacts of reproductive functions and changes to workers' physical or mental health. For example, health conditions or symptoms connected to hormones, pregnancy, menstruation, endometriosis, perimenopause, and menopause. This includes generalised pain, fatigue, nausea and other conditions that by themselves may not be considered a disability under the current definition, but which impact a worker's ability to work and may be accommodated with adjustments.
- d. We refer to the submissions by Women with Disabilities Australia and Westjustice for more detail and context around these issues.

5. Reform the DDA with the view to harmonisation of anti-discrimination laws and the introduction of a Human Rights Act

- a. Modernising the DDA and aligning it with best practice anti-discrimination law is long overdue. However, it must be reformed with the view that it is a step to harmonising and preferably consolidating all Commonwealth anti-discrimination laws so there is one set of tests and obligations for all duty holders.
 - b. Moreover, Australia should enact human rights legislation that applies nationally, encompassing the internationally recognised human rights found in the human rights treaties to which Australia is a party, including political, economic and social rights. This would greatly strengthen the rights of people with disabilities in Australia.
 - c. To ensure consistency any modernised definition of disability in the DDA must be reflected in other Commonwealth legislation, including the *Fair Work Act 2009 (Cth)*. Aligning definitions across federal laws will prevent gaps in coverage, reduce uncertainty, and ensure that the rights of people with disability are recognised and enforceable in all relevant systems.
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Conclusion

To achieve substantive equality protections, the DDA must be modernised to recognise how disability discrimination intersects with other forms of disadvantage. The reformed DDA must shift from reactive complaints to proactive prevention, embedding positive duties that require employers and regulators to eliminate discrimination before harm occurs. By explicitly recognising intersectionality, improving access to justice, and strengthening enforcement powers, the Act can address the systemic barriers that exclude workers facing multiple forms of disadvantage. Only through these reforms can we realise a future where all workers regardless of disability, gender, race or socioeconomic background can participate fully, safely, and equally in work.

