SUBMISSION TO THE REVIEW OF THE DISABILITY DISCRIMINATION ACT 1992

About the contributors to this submission

Inclusive Rainbow Voices

Inclusive Rainbow Voices (IRV) is a community led, intersectional Disabled People's Organisation, by and for LGBTIQA+ people with disability. It is the only national advocacy organisation dedicated to representing LGBTIQA+ people with disability.

IRV was founded in 2021 by a group of LGBTIQA+ people with disability to address the lack of representation and understanding of LGBTIQA+ people with disability. Its vision is equity and justice for all LGBTIQA+ people with disability.

IRV's work focuses on advocacy, peer support, education, research and movement building to achieve its goals.

IRV provides a platform for lived experience leadership, supporting community members to shape decisions that affect their lives. The organisation delivers training, resources and advice to help services, governments and institutions better understand the intersections of culture, faith, and sexual orientation or gender, and how these shape people's health and wellbeing.

Through partnerships with LHA, community organisations, and government, IRV promotes culturally responsive approaches to human rights, health and social inclusion, ensuring that all LGBTIQA+ people - regardless of background - can live with safety, dignity, and pride.

LGBTIQ+ Health Australia

LGBTIQ+ Health Australia (LHA) is the national peak health organisation for LGBTIQ+ people. LHA works to improve health outcomes through research, advocacy, and capacity building.

Its work includes national advocacy and policy development aimed at addressing systemic inequities and promoting health equity. LHA supports LGBTIQ+ organisations and services to build capacity and deliver inclusive, community-led programs that respond to the specific needs of LGBTIQ+ populations. The organisation also provides training and resources to help health professionals deliver culturally safe and competent care for LGBTIQ+ people.

LHA's research and evidence-based initiatives inform best practices and guide effective policy development, ensuring that decision-making is grounded in robust data and lived experience. Through partnerships with community organisations, government, and other stakeholders, LHA works to advance the health and wellbeing of LGBTIQ+ people across Australia.

Introduction

Inclusive Rainbow Voices (IRV) and LGBTIQ+ Health Australia (LHA) welcome the opportunity to contribute to this review of the Disability Discrimination Act 1992 (DDA). The review provides a crucial opportunity to ensure the DDA is fit for purpose, reflects the Convention on the Rights of Persons with Disabilities (CRPD), and responds effectively to the recommendations of the Disability Royal Commission.

LGBTIQ+ people with disability experience disproportionately high levels of discrimination. Australian Bureau of Statistics data shows that LGB+ people with disability report discrimination at almost three times the rate of their heterosexual peers (27.7% vs. 8.7%)[1]. For trans and gender diverse people with disability, discrimination can be compounded by stigma related to gender, sexual orientation and disability, creating complex and intersecting barriers across healthcare, education, employment, housing and justice.

People with disability are often required to advocate within hostile or poorly informed systems, leading to stress and compounding systemic barriers. The DDA should strengthen the role of representative organisations, advocacy services and collective complaints mechanisms to reduce the burden on people navigating complex complaints processes.

IRV and LHA also emphasise the importance of using the *National Action Plan for the Health and Wellbeing of LGBTIQA+ People 2025–2035*[2] to guide reforms, and of mandating the use of the ABS 2020 *Standard for Sex, Gender, Variations of Sex Characteristics and Sexual Orientation Variables*[3] to improve visibility, data quality, and accountability for LGBTIQA+ people with disability.

Part 1: Updating understandings of disability and discrimination

- **Definition of disability**: IRV and LHA support modernising the definition of disability to remove deficit-based terms such as “malfunction” or “disfigurement”. These terms are especially harmful to LGBTIQ+ people with disability, whose experiences are too often medicalised or pathologised. The definition should align with the human rights model of disability, reflect the CRPD, and recognise cultural and First Nations understandings of disability.
- **Intersectionality**: The Act should explicitly provide for intersectional complaints. LGBTIQ+ people with disability often experience layered discrimination related to disability, sexual orientation, gender, race, and age. The law must be able to capture this complexity and support just outcomes for people who experience discrimination, without requiring them to select only one aspect of their life to be considered during the complaints process.

[1] https://www.abs.gov.au/statistics/health/disability/disability-ageing-and-carers-australia-summary-findings/latest-release
[2] *National Action Plan for the Health and Wellbeing of LGBTIQA+ People 2025–2035*
[3] *Standard for Sex, Gender, Variations of Sex Characteristics and Sexual Orientation Variables*

- **Definitions of discrimination**: Direct and indirect discrimination should be defined simply and consistently across anti-discrimination laws, ensuring accessibility for people with disability.

Part 2: Positive duty to eliminate discrimination

IRV and LHA strongly support a positive duty requiring duty holders to actively prevent discrimination, shifting responsibility from the person experiencing harm to the institution.

This is especially critical for LGBTIQ+ people with disability, who frequently face discrimination in subtle and systemic ways – from exclusion in school policies, to healthcare providers lacking understanding of their needs, to workplaces that fail to provide even basic adjustments, resulting in exclusion from public life and essential services.

The Australian Human Rights Commission should be resourced with strong compliance and enforcement powers, and community-controlled organisations should be funded to educate and support both LGBTIQ+ people with disability and duty holders about their rights and responsibilities.

Part 3: Inclusion in employment, education and public life

- **Adjustments**: The law should be clear that "adjustments" are the standard, not a discretionary measure. Employers and educators must consult directly with people with disability, including LGBTIQ+ people with disability, to identify what is needed.
- **Unjustifiable hardship**: The defence of unjustifiable hardship should only apply after meaningful consultation and exploration of alternatives. LGBTIQ+ people with disability are too often told adjustments are "too difficult" without genuine consideration.
- **Inherent requirements**: Employers should not dismiss applicants without first considering adjustments. For LGBTIQ+ people with disability, assumptions about capability are often based on stereotypes rather than fact.
- **Education**: Schools and universities must not suspend, exclude or restrain students on the basis of disability. LGBTIQ+ students with disability face compounded risks of bullying, exclusion and poor mental health, making this reform urgent.

Part 4: Improving access to justice

IRV and LHA support extending protections against harassment, vilification and offensive behaviour, including in online spaces. LGBTIQ+ people with disability are disproportionately targeted by harassment and hate, both online and in person.

Clarifying that police are providers of "services" under the DDA is vital. LGBTIQ+ people with disability report poor experiences of policing, ranging from misgendering and stereotyping to outright neglect of their rights. Strengthened protections are essential to rebuild trust and ensure accountability.

Part 5: Exemptions

Exemptions should be limited, temporary, and rigorously justified. The **migration exemption** must be removed, as it entrenches discrimination against people with disability, including LGBTIQ+ people seeking to migrate to Australia with their partners or families. This exemption also has significant implications for forcibly displaced people who may pursue non-refugee pathways to citizenship because they are faster or more accessible yet subsequently face barriers to permanent residency or citizenship on the basis of disability. The Act should ensure that migration and citizenship processes do not penalise people for disability-related health needs or prevent them from seeking mental health support due to fear that such disclosure may negatively affect their eligibility.

Temporary exemptions granted by the Australian Human Rights Commission should be transparent and time limited. There should be an expectation that there is reportable progress during the period of exemption such that the applicant will be equipped to offer full inclusion at the date of expiration of the exemption.

Exemptions that enable positive special measures to advance equality should be retained.

Part 6: Modernising the Act

- **Assistance animals**: Clear, consistent rules are needed for assistance animals to ensure that LGBTIQ+ people with disability – including those who rely on animals for psychological support – are not unfairly excluded.
- **Disability action plans**: These should be mandatory for large organisations and government agencies, with a requirement to consult with people with disability, and with public reporting against measurable outcomes.
- **Disability Standards**: Enforceability must be strengthened, especially in education, health and transport. LGBTIQ+ people with disability report high levels of exclusion from healthcare and schools, and many express fear for their safety in public spaces, particularly when they are visibly disabled. Strengthening transport standards is essential to ensuring people can move freely, participate fully in public life, and access the services and opportunities that support wellbeing.

Part 7: Further options for reform

The DDA should:

- Strengthening representative complaint provisions should be a priority reform. This is the single most important step to ensure systemic discrimination is effectively addressed. Advocacy organisations, including LGBTIQ+ community-controlled organisations and specialist Disabled Persons Organisations, must be empowered to act on behalf of affected groups. Enabling collective action is essential to achieving

justice for people who face intersecting forms of discrimination and may be unable or unwilling to bring complaints individually.

- Require collection and public reporting of disaggregated data using the **ABS 2020 Standard**, to ensure visibility of LGBTIQ+ people with disability and accountability for outcomes.
- Provide additional resourcing to LGBTIQ+ community-controlled organisations and disability advocacy organisations to deliver education, advocacy and peer support.

Conclusion

The Disability Discrimination Act was a landmark when introduced, but reforms are overdue. For LGBTIQA+ people with disability, barriers remain entrenched across health, education, employment, housing, justice and everyday life.

IRV and LHA urge the Australian Government to:

1. Modernise definitions and ensure intersectional protections.
2. Introduce a positive duty on duty holders.
3. Strengthen rights in employment, education, and justice.
4. Remove discriminatory exemptions, especially the migration exemption.
5. Modernise and enforce the Disability Standards.
6. Align reforms with the CRPD, the **National Action Plan for the Health and Wellbeing of LGBTIQA+ People 2025–2035**, and the **ABS 2020 Standard**.
7. Resource LGBTIQA+ community-controlled organisations and specialist Disabled Persons Organisations, to lead reform and represent the interests of people with disability.

Inclusive Rainbow Voices and LGBTIQ+ Health Australia stand ready to work with government, people with disability, their families and carers, and our sector partners to ensure these reforms deliver genuine equality and inclusion.