



## **It's time to tackle Australia's discrimination against migrants with disabilities**

As Australians, we value our nation's commitment to inclusion and diversity. However, we are deeply concerned that this commitment does not extend to welcoming eligible visa applicants with disability or health conditions into our country. We are calling for urgent reform of Australia's migration health laws to remove their discriminatory impact on people with disabilities and health conditions.

The right to live free from discrimination on the basis of disability or health status is a fundamental human right belonging to every person. The *Migration Act 1958* should not be exempt from the *Disability Discrimination Act 1992*.

Australia's current legal framework excludes otherwise fully eligible visa applicants (and their family members) based on their disability or health status. This approach reinforces the stigma and discrimination that people with disabilities and health conditions already face. It is archaic, degrading and takes no account of the applicant's or their family's ability to contribute socially and economically to the Australian community.

It is also inconsistent with Australia's international legal obligations under core international human rights treaties.

### **Arbitrary, Outdated and Out of Step**

Every visa applicant should have the right to argue their case but Australia's migration regulations explicitly assume disability and health conditions are a cost burden to the wider community.

Each potential immigrant with a disability or health condition is currently assessed against a theoretical and arbitrary "significant cost threshold", applied irrespective of whether services are actually used. Australia's cost threshold is unreasonably low at just \$51,000 over ten years. In contrast, the Australian Institute of Health and Welfare's 2022 [report](#) noted that 2019-20 government expenditure per person on health was \$79,260 over ten years.

Australia's approach is also out of step with comparable developed democracies. Canada's significant cost threshold is currently set at \$CAD 24,000 per annum or \$CAD 120,000 over five years and New Zealand's is \$NZ 81,000 over five years.

### **Inconsistent with Human Rights**

We are particularly concerned that Australia's migration health requirements are inconsistent with both the *United Nations Convention on the Rights of Persons with Disabilities (CRPD)* and the *United Nations Convention on the Rights of the Child (CRC)*

The human rights of children born in Australia are disproportionately impacted. Otherwise eligible families already in Australia on temporary visas, looking to make their contribution to Australia

permanent, are being told they may have to leave because they have a child born here with a disability or health condition.

Australia's inclusion of education support for children with a disability or health condition within the "significant costs" threshold is inconsistent with Australia's CRC obligations to act in the best interests of children and protect their human rights to education, development and non-discrimination. Special education costs should not be treated differently to any other education cost. Education is a community investment not a cost.

### **It's Time for Action**

It has been three years since the 2019 [Concluding Observation](#) of the United Nations Committee on the Rights of Persons with Disabilities recommended that Australia amend its migration laws and policies to ensure that persons with disabilities do not face discrimination.

It has been thirteen years since the Joint Standing Committee on Migration published its "Enabling Australia" [Report](#) recommending the Federal Government replace its outmoded and discriminatory migration health requirements with a more modern approach which is consistent with Australia's international human rights law obligations and positively recognises individual and overall family contributions to Australia.

We are deeply concerned that successive federal governments have failed to act on many of the Report's fundamental recommendations.

**We call on the federal parliament to urgently replace Australia's outmoded migration health requirements with a framework that is consistent with international human rights law standards and positively recognises individual and overall family contributions to Australian communities. In particular we call for:**

- 1. Removal of the exemption in the *Disability Discrimination Act 1992* to the *Migration Act 1958*;**
- 2. A costing review of the migration health requirements, similar to the Canadian government's review of their Medical Inadmissibility requirement;**
- 3. The granting of an automatic health waiver for all children with a disability or health condition born in Australia to temporary visa applicants if the family wants to apply for further visas.**

We ask you to consider the issues raised and support our call to bring Australia's migration program into line with current understandings of people with disability as full and valuable members of society.

Signed,

1. Welcoming Disability
2. Down Syndrome Australia
3. Australian Lawyers for Human Rights
4. Australian Federation of Disability Organisations
5. First People's Disability Network (FPDN)
6. People With Disability Australia
7. Women With Disabilities Australia
8. National Ethnic Disability Alliance
9. Inclusion Australia
10. Amnesty International Australia
11. Human Rights Watch
12. Refugee Council of Australia
13. Asylum Seeker Resource Centre (ASRC)
14. Castan Centre for Human Rights Law, Monash University
15. Centre for Law and Social Justice, University of Newcastle
16. Australian Human Rights Institute, UNSW Sydney
17. Centre for Human Rights Education, Curtin University
18. Human Rights Law Centre
19. Australian Lawyers Alliance
20. Deaf Australia
21. Public Interest Advocacy Centre
22. Australasian Society for Intellectual Disability (ASID)
23. Australian Federation of AIDS Organisations
24. Rights & Inclusion Australia
25. Physical Disability Australia Ltd
26. Equality Lawyers

27. Living with Disability Research Centre, La Trobe University
28. Equality Building
29. Children and Young People with Disability Australia
30. Disability Advocacy Network Australia
31. Queensland Advocacy for Inclusion
32. Rights Information and Advocacy Centre
33. New South Wales Council for Civil Liberties
34. Refugee Advice & Casework Service (RACS)
35. Queenslanders with Disability Network (QDN)
36. Council for Intellectual Disability
37. Liberty Victoria
38. VALID
39. Advocacy for Inclusion
40. Neurodivergent Labor
41. Jesuit Social Services
42. South Australian Council of Social Service (SACOSS)
43. Down Syndrome New South Wales
44. Down Syndrome Western Australia
45. Down Syndrome Queensland
46. Down Syndrome Victoria
47. Down Syndrome Association ACT
48. The Honourable Elizabeth Evatt AC
49. Professor Emeritus Ronald McCallum AO,, Past Chair of UN Committee on the Rights of Persons  
with Disabilities, Sydney Law School, The University of Sydney
50. Graeme Innes AM, Former Australian Disability Discrimination Commissioner
51. Professor Mary Crock, Professor of Public Law, Sydney Law School, The University of Sydney

52. Professor Ben Saul, Challis Chair of International Law, The University of Sydney
53. Professor Eileen Baldry, Deputy Vice-Chancellor Equity Diversity and Inclusion and Professor of Criminology, UNSW Sydney
54. Professor Sarah Joseph, Griffith University
55. Emeritus Professor Kim Oates AO, Child and Adolescent Health, The University of Sydney
56. Adam Jaffe, John Beveridge Professor of Paediatrics, UNSW Sydney
57. Julian Trollor, Chair, Intellectual Disability Mental Health, and Head, Department of Developmental Disability Neuropsychiatry, UNSW Sydney
58. Dr Neville Rochow KC, Barrister
59. Lorana Bartels, Professor of Criminology and Adjunct Professor of Law, Australian National University; University of Canberra and University of Tasmania
60. Associate Professor Mary Anne Kenny, Murdoch University
61. Professor Rob Moodie, Melbourne School of Population and Global Health
62. Keith McVilly, Professor of Disability & Inclusion, The University of Melbourne
63. Dr. Sarah Moulds, Senior Lecturer in Law, University of South Australia
64. Emeritus Professor Jane Kenway, Monash University
65. Catia Malaquia, Lawyer and Human Rights and Inclusion Advocate
66. Kerryn Bagley, Lecturer in Social Work and Social Policy, La Trobe University
67. Rutaben Yameen, Child Rights Program Officer
68. Samantha Norman, Principal Consultant
69. Sarah Petit, Migration Agent, Mapien
70. Teresa Iacono, Professor of Rural and Regional Allied Health, La Trobe University
71. Associate Professor Tania Penovic, Deakin Law School, Deakin University
72. Professor Susan Harris Rimmer, Griffiths University
73. Dr. Shorsh Ahmad, Kurdish Program
74. Adjunct Professor Berhan Ahmed, The University of Melbourne

75. Professor Elena Marchetti, Griffith University
76. Katharine Lancaster, Occupational Therapist and research assistant
77. Alison Brooks, Administrative Assistance, La Trobe Living with Disability Research Centre
78. Charlie Fox, Associate Professor and Honorary Fellow, The University of Western Australia
79. Cheryl Wong, Senior Lawyer
80. James Pilbrow, La Trobe Living with Disability Research Centre
81. William Crisp, Research Officer, La Trobe Living with Disability Research Centre
82. Jan Gothard, Health and Disability Specialist, Estrin Saul Migration Lawyers
83. Julijana Todorovic, Lawyer
84. Jodi Lamana
85. Emily Skewis, Migration Coordinator
86. Charity Sims-Jenkins, PhD Candidate, Latrobe University
87. Daniel Estrin, Partner, Estrin Saul Lawyers
88. Reuben Saul, Partner Estrin Saul Lawyers
89. Llara Loveday
90. Sara Azadegan
91. Khanh Tran, Disabilities Officer, University of Sydney Students' Representative Council
92. Cornelia Koch, Senior Lecturer, Adelaide Law School, The University of Adelaide
93. Paul Creedon
94. Melanie hayes, Senior Administration Officer, Living with Disability Research Centre, La Trobe University
95. Sophie Geeves, Policy Officer, First People's Disability Network
96. Catherine Sarre
97. Dr. Lewis Schetzer, Teaching Fellow, UNSW Law
98. Kathryn Viegas, Director & Principal Solicitor, Nomos Legal
99. Carina Ford, Managing Partner, Carina Ford Immigration Lawyers

100. Valerie Pereira, Accredited Specialist Lawyer, Dagamapereira & Associates P/L
101. Min Guo, Barrister
102. Ellen Skladzien, Former CEO, Down Syndrome Australia
103. Suresh Rajan, Community Advocate
104. Professor Matthew Stubbs, Editor in Chief, *Adelaide Law Review*, Adelaide Law School,  
Faculty of Arts, Business, Law and Economics, The University of Adelaide