



Recommendations to the Review of Australia's visa Significant Cost Threshold (SCT)



Provided to the Department of Home Affairs
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Image Description: a child with down syndrome and a parent or carer play with small wooden elephants



Recommendations

Welcoming Disability recommends that the Federal Government:

1. Implement Recommendation 4.32 of the 2023 Report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability and Recommendation 36(a) of the United Nations Committee on the Rights of Persons with Disabilities 2019 Concluding Observations to Australia by reviewing and removing:
 - a. the exemption in the *Disability Discrimination Act 1992* (Cth) to certain provisions of the *Migration Act 1958* (Cth);
 - b. Australia's interpretative declaration to the *Convention on the Rights of Persons with Disabilities*;
 - c. all forms of discrimination against people with disabilities and health conditions in Australia's laws, formalities and procedures relating to migration and asylum in order to ensure compliance with Australia's obligations under:
 - i. the Convention on the Rights of Persons with Disabilities;
 - ii. the Convention on the Rights of the Child; and
 - iii. the remaining core United Nations human rights treaties to which Australia is a Party.
2. Immediately increase the unrealistic and internationally out of step Significant Cost Threshold (SCT) to a level that is at least commensurate with comparable democracies such as Canada and New Zealand.
3. Reduce the assessed SCT time frame applied to permanent visa applicants from ten years to five years in line with the practice adopted in comparable democracies such as Canada and New Zealand.
4. Formalise a definition of "significant cost" as a cost that exceeds the average costs of the Australian resident, as assessed by the Australian Institute of Health and Welfare (AIHW).
5. Tie the SCT to AIHW figures in order to enable regular and automatic incremental adjustments to the level of the SCT and establish a fixed and transparent relationship between the combined annual per capita expenditure on health and welfare as published by the AIHW and the SCT, to align with the notion that a significant cost is necessarily greater than the average cost.
6. Recognise that the right to education is a fundamental human right belonging to all children by immediately removing "special" education or supported education from Policy settings that include it as a community cost for the purposes of the MHR.
7. Grant all children with disability or health conditions born in Australia to temporary residents an automatic waiver of the MHR.
8. Implement the recommendations of the 2010 *Enabling Australia* Inquiry Report with particular regard to the Inquiry recommendations that were accepted within the Federal Government's 2012 Response, but which remain unimplemented, including:
 - a. granting all visa applicants the right to apply for a waiver of the MHR by dispensing with PIC 4005;
 - b. abolishing the "one fails, all fail" rule;
 - c. abolishing the requirement for non-migrating family members to meet the MHR; and
 - d. abolishing the "hypothetical person" test.

This submission was prepared by the Welcoming Disability Campaign.

The eight key recommendations within this submission are endorsed by the following organisations and experts:

1. Australian Lawyers for Human Rights (ALHR)
2. Down Syndrome Australia
3. Australian Federation of Disability Organisations
4. National Ethnic Disability Alliance (NEDA)
5. People With Disability Australia
6. Children and Young People with Disabilities Australia (CYDA)
7. Women With Disabilities Australia
8. Inclusion Australia
9. LGBTIQ+ Health Australia
10. ACON
11. Amnesty International Australia
12. Equality Australia
13. Australian Women Lawyers Ltd.
14. Disability Advocacy Network Australia (DANA)
15. Advocacy for Inclusion
16. Physical Disability Australia
17. Rights and Inclusion Australia
18. Human Rights Law Centre
19. Centre for Human Rights Education, Curtin University
20. Australian Lawyers Alliance
21. Migration Institute of Australia
22. Public Interest Advocacy Centre
23. Neurodivergent Labor
24. Association for Services to Torture and Trauma Survivors (ASeTTS)
25. Centre for Law and Social Justice, Newcastle University
26. Deafness Forum Australia
27. Cystic Fibrosis Australia
28. Australasian Society for Intellectual Disability
29. New South Wales Council for Civil Liberties

30. Liberty Victoria
31. University of Sydney Disabilities Collective
32. Equality Building
33. Queensland Advocacy for Inclusion
34. SCALES (Southern Communities Advocacy Legal & Education Service)
35. AMPARO Advocacy
36. Imagine More
37. Disability Voices Tasmania
38. RIAC (Rights Information Advocacy Centre)
39. The Growing Space
40. Speak Out Advocacy
41. Rights In Action
42. Kurdish Program on 3ZZZ Community Ethnic Radio
43. SANE
44. Crossing Borders
45. Equality Lawyers
46. Down Syndrome Victoria
47. ACT Down Syndrome
48. Down Syndrome Queensland
49. Estrin Saul Lawyers
50. Dr Jan Gothard, Migration law and policy expert
51. The Hon Elizabeth Evatt AC
52. Graeme Innes AM, Former Australian Disability Discrimination Commissioner
53. Professor Adam Jaffe, UNSW Sydney
54. Professor Julian Trollor, Acting Director, National Centre of Excellence in Intellectual Disability Health; Head of Department of Developmental Disability Neuropsychiatry; NHMRC Leadership Fellow, UNSW Medicine and Health, UNSW Sydney
55. Kim Oates AO Emeritus Professor, Client Health, Sydney University
56. Professor Christine Bigby, Director of the Living with Disability Research Centre, La Trobe University
57. Professor Keith R. McVilly, University of Melbourne
58. Cornelia Koch, Adelaide Law School
59. Dr. Dinesh Palipana OAM

60. Professor Susan Harris Rimmer, Griffith University
61. Associate Professor Mary Anne Kenny, School of Law and Criminology, Murdoch University
62. Dr Robin Banks, Post-Doctoral Fellow, Faculty of Law, University of Tasmania
63. Michael Small, Director, Equality Building
64. Helen Said
65. Nathan Kennedy
66. Professor Charlie Fox, UWA History Department
67. Kathryn Viegas
68. Min Guo
69. Samantha Norman, RMA
70. Jane Kenway, Emeritus Professor, Monash University, Professorial Fellow, Melbourne University
71. Sarah Pettit, Associate Director Mapien



Image Description: a collage of all of the logos of the civil society organisations that have endorsed the eight key recommendations.