



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Arbitrary, Outdated and Out of Step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,

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