



University of  
South Australia

# **ACCESS TO LEGAL SERVICES FOR PEOPLE WITH LIVED EXPERIENCE OF DISABILITY IN SOUTH AUSTRALIA**

**Vacation Scholarship Briefing Paper  
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## Project Summary & Aim

In South Australia, there is no specialist free legal service that supports people with lived experience of disability. This project set out to provide evidence-based support for such a service.

This Briefing Paper will:

1. Provide a brief overview of the international human rights framework relevant to persons with disabilities
2. Provide a brief overview of the relationship between human rights principles and access to justice for particular groups and cohorts within the South Australian community
3. Identify some of the structural deficits and practical barriers to access to specialist legal services for persons with disabilities in South Australia
4. Outline some possible options for reform, including:
  - a. The establishment of a specialist, free legal service that supports people with lived experience of disability is needed in South Australia in order to address critical gaps in existing systems and barriers to access to justice and to ensure the protection and promotion of human rights of persons with disabilities in our community. The Disability Discrimination Legal Service Inc (Victoria) provides a possible model to consider the Disability Rights and Advocacy Service (SA) (DRAS) is ideally placed to facilitate such a service.
  - b. Increased funding for disability advocacy service in South Australia, noting that advocates who have lived experience of disability are particularly vital, as they offer a deeper understanding and personal insight into the challenges faced by those with disabilities.
  - c. The provision of disability-specific legal aid funding to ensure that individuals with disabilities can access the resources they need when fighting for their rights.
  - d. The introduction of specific human rights legislation in South Australia, in the form of a Charter of Human Rights or Human Rights Act, that provides protection for the rights of persons with disabilities, and access to legal remedies for breach.

## Methodology and Approach

This Briefing Paper adopts a human rights approach to analysing and synthesising relevant materials relating to the provision of legal services to persons with disabilities in South Australia. This approach recognises that:

- Human rights are essential in a democratic and inclusive society that respects the rule of law, human dignity, equality and freedom;
- Human rights belong to all people without discrimination, and the diversity of the people of South Australia enhances our community;
- Human rights come with responsibilities and must be exercised in a way that respects the human rights of others; (Victorian Human Rights Commission, 2008)

A human rights approach to the provision of legal services ensures that all individuals have access to justice, regardless of their socio-economic status, race, gender, or other characteristics (Office of the United Nations High Commissioner for Human Rights.). This approach emphasises the protection and promotion of fundamental rights and freedoms, such as the right to a fair trial, freedom from discrimination, and the right to legal representation. By prioritising these principles, legal services become more inclusive and equitable, empowering individuals to seek redress and uphold their rights. For communities, this approach fosters social cohesion and trust in the legal system, as it addresses systemic inequalities and promotes accountability (Victorian Human Rights Commission, 2008 p. 7). Governments and other funders of legal services benefit, as a human rights-based approach has the potential to deliver system-level cost savings and efficiencies, as well contributing to social stability and economic development (Victorian Human Rights Commission, 2008 p. 11).

In the context of considering the need for a specialist free legal service that supports people with lived experience of disability, a human rights approach encourages consideration of:

- the interests, experiences and needs of all stakeholders;
- the particular rights of each of these stakeholders and their corresponding duties and responsibilities;
- each relevant stakeholders' capacity for participation;
- the extent to which current practice currently meets, or needs to improve in relation to key human rights principles – participation, accountability, non-discrimination, empowerment and linkages with human rights standards.<sup>1</sup>

As discussed further below, the key finding of this Briefing Paper is that a specialist, free legal service that supports people with lived experience of disability is needed in South Australia in order to address critical gaps in existing systems and barriers to access to justice, and to ensure the protection and promotion of the human rights of persons with disabilities in our community.

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<sup>1</sup> This approach draws from the Department of Health and the British Institute of Human Rights (2007), Human rights in healthcare: a framework for local action; Victorian Human Rights Commission, 2008 ' - [https://acfid.asn.au/sites/site.acfid/files/resource\\_document/From-Principle-to-Practice-Implementing-the-Human-Rights-Based-Approach-in-Community.pdf](https://acfid.asn.au/sites/site.acfid/files/resource_document/From-Principle-to-Practice-Implementing-the-Human-Rights-Based-Approach-in-Community.pdf); ("A Guide for Integrating Human Rights Into Organisational Practice and Culture", Business Leaders Initiative on Human Rights, United Nations Global Compact, Office of the United Nations High Commissioner for Human Rights; Victorian Council of Social Service (2008), Using the Charter in policy and practice: ways in which community sector organisations are responding to the Victorian Charter of Human Rights and Responsibilities. [www.vcross.org.au/documents/VCOSS%20docs/Human%20Rights/Using%20the%20Charter%20in%20Policy%20and%20Practice\\_email.pdf](http://www.vcross.org.au/documents/VCOSS%20docs/Human%20Rights/Using%20the%20Charter%20in%20Policy%20and%20Practice_email.pdf); UK Audit Commission (2003). Human rights: improving public service delivery [www.audit-commission.gov.uk/Products/NATIONAL-REPORT/FDE9C6A9-7DAF-4cd3-B21E-21E9E13E1D43/HumanRightsreport.pdf](http://www.audit-commission.gov.uk/Products/NATIONAL-REPORT/FDE9C6A9-7DAF-4cd3-B21E-21E9E13E1D43/HumanRightsreport.pdf).

## Background & Context

In collaboration with Disability Rights Advocacy Service (DRAS), this research project aims to provide an exploration and evidence base for stakeholders to seek recognition and resourcing of the need for a specialised service.

There is a powerful argument that specialist legal services provide unique and tailored legal assistance to particular cohorts. The existence of the Aboriginal Legal Rights Movement (ALRM) and the Women's Legal Service South Australia (WLSSA) are examples of this. In South Australia, there is no specialist free legal service that supports people with lived experience of disability. This project set out to provide evidence-based support for such a service.

The DRAS is a community organisation that is run by community members and a Board, which is made up of people with a disability.

Since 2019 DRAS has been funded by the Australian Government to provide advocacy support services for people with disability through the following programs:

- Disability Royal Commission Program
- National Disability Advocacy Program
- NDIS Appeals Program
- Individual Capacity Building Program

DRAS has offices in metropolitan Adelaide and regional areas in South Australia (<https://www.dras.com.au/what-we-do>). DRAS's work is governed by the following guiding principles:

*People with disabilities have the same rights as other members of the Australian community.*

*People with a disability should be able to maintain and develop their culture without prejudice or disadvantage and should be encouraged to understand and embrace other cultures.*

*People with a disability should be able to receive services necessary to enable them to achieve their maximum potential as members of the community.*

*People with a disability are entitled to participate in decisions that affect their lives and to receive services in a manner that results in the least restriction of their rights and opportunities.*

DRAS has identified that 60% of their advocacy clients require legal advice over and above their need for advocacy assistance. This is an unmet legal need for a priority group as identified by a recent national review of legal assistance services undertaken by the Federal Government

DRAS has articulated the need for such a service as follows:

*The National Strategic Framework that provides policy framework for all government legal assistance funding, focuses on that services should be 'client centric'. It states that to meet the legal needs of the most vulnerable members of our community services should be tailored and 'appropriate to people's particular needs, capabilities and knowledge'. It specifically refers to 'disability and barriers faced in interacting with the legal system, and the complexity of legal problems*

*faced'. In order to provide this, such a service needs to be unique and bespoke in its approach to providing effective, timely and appropriate legal assistance.*

*People with lived experience of disability are more likely to engage with people with experience in the sector; active recruiting of staff with lived experience of disability should form a pillar for any organization providing legal assistance to people with lived experience of disability.*

*The Final Report of the Disability Royal Commission (DRC) reports the over-representation of people with disability, particularly those with cognitive disabilities, at all stages of the criminal justice system. The DRC Report also notes that people with disability come into contact with the justice system at higher rates as victims of crime. The Disability Royal Commission Report and in particular Recommendation 7.40 relating to the establishment of free, independent legal advice and advocacy services for people with disability experiencing homelessness, and in Recommendation 5.4, the DRC recommended a review of the National Legal Assistance Partnership.*

*A significant issue that was identified by the DRC, is that when people with disability are expected to repeat their story over and over again, they lose confidence and this creates another real barrier for them and results in them dropping out of the system and not getting the legal assistance that they really need.*

*Not every person with a disability who is a victim of crime ends up as a defendant; research suggests that every defendant with a disability was previously identified as a victim. Victims and witnesses with disability, especially cognitive impairment, have traditionally been seen as unreliable and in the justice system. Providing an integrated service that assists defendants, victims and witnesses will go some way to address this systemic issue.*

*The legal needs of people with lived experience are often complex and often involve family members and/or carers. This makes seeking legal much more difficult.*

DRAS considers itself ideally placed to respond to this need and has articulated its vision for the provision of specialist disability community legal services as follows:

*Presently, when DRAS advocates need to seek legal advice for their clients, they utilise the limited resources of the Legal Services Commission and this can only be done in relation to National Disability Insurance Scheme Appeals currently lodged with the Administrative Appeals Tribunal.*

*As DRAS has evolved and grown, our staff have become increasingly aware of the gap between the service that we can provide and a client's need for legal assistance. This is need that under our current structure cannot be met for people with disability who under our submission will receive a complete service from the one provider.*

*DRAS currently provides advocacy for people with disability covering a broad spectrum of areas being health, housing, Centrelink, Guardianship and a range of matters that fall under the NDIS umbrella. Presently DRAS cannot provide*

*representation for a client that falls under jurisdictions such of the Family, Magistrates or Civil courts.*

*The role of advocates is vital for vulnerable members of the community; it is unique in its own area and essential for people with disability in resolving issues surrounding discrimination because of their disability. It is not, however, a substitute for legal advice provided by a certified practitioner. The DRAS legal service will reinforce the South Australian Government's commitment under the Legal Assistance Strategy plan by honouring their pledge to improve Access to Justice for **ALL** South Australians.*

...

*DRAS maintains a position of being highly regarded for the delivery of advocacy service to the disability community in South Australia. During the 2022/2023 financial year DRAS provided advocacy support services to over 1000 clients. DRAS provides a service to South Australians with disability from offices located in Brooklyn Park, Berri (servicing the Riverland) and Mount Gambier (servicing the South-East). Our service focus is on clients living in both metropolitan and regional areas.*

*The DRAS Board of management comprises six volunteers, all of whom are people with lived experience of disability. This is a strong base for ensuring the services we deliver are attuned to the needs of the community we seek to service. DRAS staff currently comprises over 50% of people with lived experience of disability or who are a family member or carer of a person with lived experience.*

*Our ability as an organisation that delivers services to a specific community to adapt to changing client demands over the past 30 years highlights our awareness of the ever-evolving needs of our clients. This adaptability coupled with our intimate knowledge of the needs of the disability community gained since our inception, we submit, places DRAS in a strong position to launch a much-needed disability focused legal service.*

## Key Finding: Access to Specialist Legal Services for Persons with a Disability is an Urgent Human Rights Issue in South Australia

This Briefing Paper finds that a specialist, free legal service that supports people with lived experience of disability is needed in South Australia in order to address critical gaps in existing systems and barriers to access to justice, and to ensure the protection and promotion of the human rights of persons with disabilities in our community.

Having specialist lawyers and peer support advocates servicing this vulnerable section of our community would begin to make long-lasting changes to the way in which people with disability can access and use the legal assistance sector. It would also align with the South Australian Legal Assistance Action and Strategy Plan 2022-2025 which is designed to address the inequality of access to justice for all South Australians.

The Disability Discrimination Legal Service Inc (Victoria) provides a possible model to consider, and the Disability Rights and Advocacy Service (SA) (DRAS) is ideally placed to facilitate such a service.

It further finds that such a service must be accompanied by:

- increased funding for disability advocacy service in South Australia, noting that advocates who have lived experience of disability are particularly vital, as they offer a deeper understanding and personal insight into the challenges faced by those with disabilities;
- disability-specific legal aid funding to ensure that individuals with disabilities can access the resources they need when fighting for their rights;
- the introduction of specialist human rights legislation in South Australia, in the form of a Charter of Human Rights or Human Rights Act, that provides specific protection for the rights of persons with disabilities, and access to legal remedies for breach.



## ANALYSIS – PART 1 Human Rights of Persons with Disabilities

*"Human rights are inherent to all individuals, regardless of their race, sex, nationality, ethnicity, language, religion, or any other status. These rights encompass the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, as well as the right to work and education, among others. All individuals are entitled to these rights without any form of discrimination." (United Nations, 2024)*

The internationally recognised human rights are set out in the *Universal Declaration of Human Rights* and in a range of related treaties to which Australia is a party including the *International Covenant on Civil and Political Rights* (ICCPR), the *International Covenant on Economic, Social and Cultural Rights* and the *United Nations Convention on the Rights of Persons with Disabilities* (UNCRPD).

Australia has signed and ratified these treaties which gives rise to obligations under international law to implement these rights domestically and to report periodically to the United Nations Human Rights Committee on its progress.<sup>2</sup> While these fundamental democratic rights and freedoms underpin Australia's modern democracy, it may surprise many to learn that these rights and freedoms are not set out in our *Constitution*, or any other piece of legislation at the federal level. Unlike almost every other democracy, we do not have a Bill of Rights. South Australia does not have a Human Rights Act or Charter (although there is an inquiry currently underway into a potential human rights law).<sup>3</sup> Specific human rights laws are in place in some States and Territories, including in Victoria,<sup>4</sup> Queensland<sup>5</sup> and the Australian Capital Territory.<sup>6</sup>

This means that in a jurisdiction like South Australia, specific legislative or policy action is required to give legal and practical meaning to these internationally recognised human rights – which are otherwise vulnerable to abrogation without remedy through both explicit actions to deny an individual or group of their fundamental rights, or through a failure to take action or fund services to protect and promote their rights.

South Australia has specific obligations to protect and promote the rights of persons with disabilities, and as noted below, this extends to the provision of accessible legal services to ensure that persons with disabilities can understand and access their rights and seek redress for any breach or abrogation of their human rights.

### United Nations Convention on the Rights of Persons with Disabilities

The *United Nations Convention on the Rights of Persons with Disabilities* (CRPD) establishes the fundamental rights of people with disabilities, intending to *"protect, promote, and ensure the full and equal enjoyment of human rights and fundamental freedoms."* (Australian Human Rights Commission (AHRC), 2024)

The recent *Royal Commission into the violence, abuse, neglect, and exploitation of people with disabilities*<sup>7</sup> found that the rights under the CRPD are not adequately protected by Australian law

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<sup>2</sup> See e.g. Ryazard W Piotrowicz and Stuart Kaye,(2000). *Human rights in international and Australian law*. (Butterworths Australia, 2000); See also Martin, n 3.

<sup>3</sup> See Parliament of South Australia, Social Development Committee's Inquiry into a Potential Human Rights Act for South Australia, 2023 <<https://www.parliament.sa.gov.au/en/Committees/Committees-Detail>>.

<sup>4</sup> *Charter of Human Rights and Responsibilities Act 2006* (Vic) s16.

<sup>5</sup> *Human Rights Act 2019* (Qld) s22.

<sup>6</sup> *Human Rights Act 2004* (ACT) s15.

<sup>7</sup> The *Royal Commission into Violence, abuse, neglect, and Exploitation of People with Disabilities* was established in April 2019 due to widespread concerns and reports regarding these issues. The final report was released in September 2023, with an update and corrections provided in November. The report includes a total of 222 recommendations aimed at improving laws, policies, structures, and practices.

(Commonwealth of Australia, 2023b, p.89). Additionally, these rights are insufficiently reflected in policy and practice. The Commission also discovered that both Commonwealth and state disability discrimination laws and complaint systems fail to effectively address the discrimination, marginalization, and exclusion that people with disabilities face. In some cases, these laws and systems may even increase the risk of violations of their rights (Commonwealth of Australia, 2023b, p.107).

Many existing laws and systems were designed by and for people without disabilities, which often fails to protect those with disabilities (Commonwealth of Australia, 2023b, p. 120). The systems that individuals with disabilities must navigate for support often work against them, making them more vulnerable to exploitation. This includes being forced into segregated work, education, and services, which violates their human rights and creates barriers to accessible means of advocating for their rights (Commonwealth of Australia, 2023b, p. 121).

### Legal Rights/Legal System

In South Australia, approximately 332,500 people—about one in five residents—live with a disability (ABS, 2019). Individuals with disabilities are more vulnerable to legal problems, facing such issues 2.2 times more often than those without disabilities (Coumarelos et al., pp.18-19) Legal matters often take longer to resolve, partly due to health and non-legal issues that tend to overshadow them, As a result, these legal problems may not be addressed promptly, which can lead to further health challenges and non-legal issues being neglected, ultimately affecting their ability to manage all these concerns (Coumarelos et al, 2012, pp.19,28).

Within the Australian justice system, individuals with disabilities are disproportionately represented compared to the general population. It has been reported that 1 in 3 individuals entering prison have a chronic condition or disability, in contrast to 1 in 5 people in the broader community (Commonwealth of Australia, 2023f, p.34). Additionally, 25-30% of those within the prison system have an intellectual disability, despite representing only 2% of the overall population (Commonwealth of Australia, 2023f, p.34). Aboriginal and Torres Strait Islander Peoples aged 17 to 75 with mental health disorders and cognitive disabilities experience more frequent and earlier contact with the criminal justice system than their non-Indigenous counterparts (Commonwealth of Australia, 2023f, p.38). Individuals with disabilities are often subject to frequent and intense policing, with people with cognitive disabilities are more likely to experience multiple forms of disadvantage, which increases their risk of being criminalized and becoming trapped in a cycle of reoffending and incarceration (Commonwealth of Australia, 2023f. p.4).

These statistics indicate that current justice systems disproportionately affect people with disabilities, suggesting that the right to justice is not being upheld within the justice system.

Under the *United Nations Convention on the Rights of Persons with Disabilities*, Article 13 outlines the Right to Access to Justice as follows:

*“States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.” (United Nations, 2006, p.11)*

Individuals with disabilities in the legal system—whether as witnesses, defendants, or plaintiffs—often face exclusion, gatekeeping, and discrimination. This treatment arises from their disabilities, regardless of whether these are relevant to their cases, In some instances, their disabilities are even used against them, leading to questions about their legal capacity (Commonwealth of Australia, 2023, p.53).

In an Article by Gray et al. (2009, p. 2,5) addresses the challenges individuals with cognitive impairments face in accessing justice and navigating legal processes, It identifies barriers like communication difficulties, reliance on written information, and the stressful nature of legal proceedings. The article notes how these challenges intersect with other disadvantages, such as poverty and low education, worsening legal issues (Gray et al., 2009, p. 3). It calls for reforms to improve accessibility, such as allowing support persons during testimonies and providing tailored legal information (Gray et al., 2009, p. 10) Additionally, it emphasises the need for training and resources to aid individuals in navigating the legal system effectively (Gray et al., 2009, p. 10)

The second element of Article 13 emphasises that *"Parties shall promote appropriate training for individuals working in the administration of justice, including police and prison staff."* (United Nations, 2006, p.11) This training is crucial for the justice system, as disabilities can manifest in various forms that are often misunderstood or subject to stereotypes.

Although initiatives like the *Disability Access and Inclusion Plan 2020–2024* in South Australia have made progress with respect to improving training and awareness, persistent structural and legal barriers continue to foster environments conducive to discrimination and stereotyping. Furthermore, changing societal expectations and cultural beliefs within the justice and police systems will require significant time, effort, and systematic change. Within Rowe et al. (2022, p. 180) article on policing disability, an advocate stated that:

*"Sometimes the [police] officers I've spoken to genuinely don't believe that the client has the disability that they've been diagnosed with. ... It's completely disregarded. I think that they [the police] think that a person is sometimes lying [and] has behaviours that they allocate to a disability. It's a case of either I don't want to help, I'm not going to help, or I don't believe you have a disability, I don't believe you deserve the help. (Advocate 02)"*

## Housing Rights

Housing is a fundamental human right of all people, but it is crucial that disability-accessible housing is available, and accommodations are made. In the UNCRPD, Article 28, Adequate Standard of Living and Social Protection goes further and states:

*"States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability."* (United Nations, 2006, pp.20-28)

In the current housing and rental crisis, DRAS has seen a huge increase in cases relating to housing, with social housing waiting lists becoming longer, and high-priority cases taking longer and longer (DRAS, 2021, p.5). Issues such as being given an eviction notice without fault of their own, individuals forced to be in houses that are harmful to their health and inaccessible due to being unable to afford elsewhere and being forced to live areas, taking them away from care teams, childcare and places of work (DRAS, 2021, pp.9-10).

Aitken et al. (2019, p. 132) found in their study that individuals with disabilities are less likely to have a mortgage. Instead, they are more likely to live in homes they own outright or in public rental housing. Additionally, these individuals tend to experience challenges such as living in less affordable housing, having to move due to health issues, live in poor-quality homes, and feeling dissatisfied with both their living conditions and the neighbourhoods they live in (Aitken et al., 2019, p.132).

Under the NDIS, several housing options are available, including individual housing, group housing, and housing facilities. Specialist Disability Accommodation (SDA) is a form of housing funded by the NDIS but is reserved for extreme support needs. Unless the individual is eligible for the SDA, the NDIS does not generally fund long-term accommodation (Commonwealth of Australia, 2023e, pp. 542-543).

An article by Beer et al. (2020, pp.8-9) found that the introduction of the NDIS may be a contributing factor to the rising levels of homelessness among people with disabilities, particularly those with cognitive disabilities and mental illnesses due to these groups being less likely to receive NDIS support. The NDIS system assumes that people with disabilities have the knowledge, capacity, and support to access the service and achieve the best outcomes and adequate care (Fisher et al., 2023, p. 113).

On the other hand, individuals without NDIS coverage or those lacking sufficient funds are at a significant risk of homelessness, particularly given today's housing market. Many people with disabilities have limited ability to work or struggle to find suitable employment, which makes it challenging for them to afford rent or buy a home (Beer et al., 2020, pp. 7–8). As a result, many end up relying on others for housing or living in shared accommodations.

Individuals with mental illness, cognitive disability and some invisible disabilities frequently experience high levels of homelessness due to insufficient support services, being less likely to have NDIS support and less likely to get onto the DSP (Fisher et al., 2023, pp. 113–114). Many of them have episodic symptoms that make it difficult to maintain employment, comply with job-seeking requirements, and find housing, especially when they lack family support. As a result, they often end up homeless (Moschion & van Ours, 2021, p. 9).

DRAS has addressed several housing-related issues, showcasing their commitment to supporting vulnerable clients through complex legal challenges.

One significant case involved a vulnerable client who faced an unfair eviction orchestrated by their SIL provider. This unfortunate situation led to the client not only losing their home but also having their personal belongings unjustly retained by the provider. Understanding the gravity of the situation, DRAS stepped in to support the client. They provided thorough advice and empowered the client to self-advocate at the South Australian Civil and Administrative Tribunal (SACAT). With DRAS's assistance, the client successfully recovered her property, which was valued at \$5,000. Furthermore, DRAS guided her through the logistics of reclaiming her belongings from the SIL provider, helping to restore a sense of security and ownership in her life.

In a separate case, DRAS supported a client embroiled in a long-standing civil dispute with a former commercial landlord over unpaid rent. The client had been struggling for years, facing mounting debts that seemed insurmountable. Once DRAS Legal got involved, they worked diligently to negotiate a settlement on behalf of the client. Their efforts paid off; the outcome allowed the client to pay significantly less than the original debt, and crucially, they managed to exclude the exorbitant legal costs the landlord sought to impose, which had far exceeded the actual debt.

Through these cases, DRAS not only provided legal representation but also empowered clients to reclaim their rights and navigate the often-daunting legal landscape, highlighting the critical role that support services play in securing justice for vulnerable individuals.

## Employment Rights

Employment for people with disability is essential for living independently and participating in the community. Unfortunately, it is a major barrier for those living with a disability due to finding suitable employment, getting accommodations, and discrimination at work, from other employees and managers which can lead to unfair dismissal (Temple et al., 2018, pp. 1–2). In 2018 it was reported

that it was twice as likely to be unemployed compared to those without a disability, with young people aged 15-24 being twice as likely within this group (AIHW, 2024).

Many employers do not hire people with disabilities due to misconceptions, such as the belief that individuals with disabilities are less productive and that accommodations are too costly. Despite it being illegal to discriminate during the hiring process, discrimination still occurs (Bonaccio et al., 2020, p. 147). During job interviews, Christian, who has epilepsy, shares his experiences with disclosing his disability to the Royal Commission as he stated, *"It's like I've either sworn at them or punched them in the mouth, because it puts them off"* (Commonwealth of Australia, 2023i, p.117). Dolly, a woman who uses a wheelchair, stated in the royal commission about the challenges of the job interview process for individuals with physical disabilities

*"I'll turn up for the interview and all they do is look at the chair. They don't look at me. And they either see me as a burden because they'll have to make access changes to the workplace, or they see me as a cash cow because they get money from the government to have me as an employee. But either way I don't get the job."* (Commonwealth of Australia, 2023j, p.46)

Even after being employed, people with disabilities are less likely to receive promotions and may also face exclusion, particularly those with mental and neurological disabilities (Cavanagh et al., 2017, pp. 28–30).

Individuals with invisible disabilities often struggle with disclosing their condition. Many choose not to share this information due to past negative experiences or fear of discrimination during interviews. Not disclosing their disability can result in a lack of necessary accommodations, possibly affecting their health and well-being (Prince, 2017, pp. 79–80). Many fear people with disability are being bullied by coworkers or managers for receiving what others might perceive as "special treatment." If they get accommodations and disclose their disability, requesting accommodations can be more challenging for this group because they may appear "normal." (Prince, 2017, pp. 80–81).

A lack of knowledge about an individual's rights to employment and the legislation behind them can often cause issues for those who have been discriminated against at work and are unable to protect their rights (Commonwealth of Australia, 2023d, p.408). Specialist disability legal services are vital when dealing with disability discrimination cases due to their complexity. Proving cases of employment discrimination against individuals with disabilities can be difficult due to a lack of concrete evidence. Often, evidence can be destroyed, and larger employers have the resources to out lawyers and have more money for legal fees than individuals in legal battles (Commonwealth of Australia, 2023d, p.409).

## Systems and structural barriers to justice

### Physical

Accommodations for those with disability are important for equity and living a fully independent life. In the *United Nations Conventions of Rights of People with Disability (UNCRPD)*, Article 9 states

*"Parties shall take appropriate measures to ensure persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and other facilities and services open or provided to the public, both in urban and in rural areas. These measures shall include the identification and elimination of obstacles and barriers to accessibility."* (United Nations, 2006, p.9)



Different accessibility options such as interpreters, in-court amplification and wheelchair accessibility, are available in courts, but there is an inconsistency between various courts. Smaller courts often provide fewer options. In South Australia, court processes give limited support to adult offenders who experience disability, allowing support persons only if an individual is representing themselves. Improvements have been made for individuals with disabilities who serve as witnesses, particularly through the Evidence (Vulnerable Witnesses) Amendment Act 2020. Currently, vulnerable witnesses are allowed certain adjustments, such as pre-trial hearings for those who may struggle to provide coherent or rational responses to questions in court, courts are also required to provide a communication partner for individuals with intellectual disabilities (Plater *et al.*, 2021, p. 228) Since the 2020 COVID pandemic virtual courts were implemented in 2021, which can enable people with more severe physical disability to attend court within their own homes, increasing accessibility, but could be inaccessible to some due to that technology barrier (Law Council of Australia, 2022, p.3)

Communication partners (CP) play a crucial role for individuals with disabilities who have communication difficulties. While there have been improvements for vulnerable witnesses, the Summary Offences Act requires investigating officers to provide a communication partner or assistant if they believe a suspect has complex communication needs (Plater *et al.*, 2021, p. 234). However, officers can choose to proceed without this support if they determine that it is not "reasonably practical" to provide one and that delaying the interview to arrange for a CP would not be justified (Plater *et al.*, 2021, p. 234). This situation could result in many suspects going without the necessary support, as the decision falls to the officer. This lack of support can have serious implications for the case.

#### Poverty and economic disadvantage

Individuals with disabilities are often more susceptible to socioeconomic disadvantage, which can result in poverty, homelessness, and barriers to accessing necessary treatment. Those who do not qualify for the National Disability Insurance Scheme (NDIS) frequently have to self-fund their care. A large portion of these individuals have psychosocial disabilities that are viewed as not severe enough to warrant support (Mellifont *et al.*, 2023, pp. 263–264). Those suffering from severe mental health issues often struggle to receive adequate treatment, leading to difficulties in maintaining employment and a cycle of homelessness, as they frequently cycle in and out of hospital systems (Mellifont *et al.*, 2023, p. 273).

Accessing existing legal services in Australia for people with a disability can often be hindered by financial barriers, including costs of legal advice and representation, as well as the risk of cost orders being made against complaints or parties to some civil actions. This challenge is compounded by legal professionals and courts that may not fully comprehend various disabilities and fail to implement reasonable adjustments, creating a fundamentally unfair situation from the outset.

A recurring theme identified in the Royal Commission is that pursuing legal action becomes nearly impossible for individuals with more severe disabilities; the accumulating legal fees lead many to abandon their cases or settle for less than satisfactory outcomes (Commonwealth of Australia, 2023a). Many cases are likely to fail from the beginning without adequate legal support.

Individuals with disabilities who have a lower socio-economic status tend to receive smaller budgets for their NDIS plans, This is often due to the significant amount of time, energy, knowledge and cost required to secure better outcomes (Cortese *et al.*, 2021, p. 898).

During the 2023-2024 period, DRAS handled the highest number of cases to date, primarily involving individuals challenging Centrelink's decisions related to the Disability Support Pension, including internal reviews and applications for review to the Administrative Appeals Tribunal (DRAS, 2023,

p.18). Additionally, there has been an increase in people seeking assistance with decisions made by the NDIA (DRAS, 2023, p. 15).

### Intersectional Discrimination

It is important to understand that disability is not experienced in isolation. Many individuals who face discrimination due to their disabilities are also part of minority groups, such as Culturally and Linguistically Diverse (CALD) communities, Aboriginal and Torres Strait Islander peoples, and members of the LGBTQIA+ community. As a result, they encounter additional challenges related to sexism, racism, ableism and other forms of intersectional discrimination. Moreover, it is common for individuals with disabilities to experience secondary disabilities, and disability can manifest in various ways for different people. Those with neurological or other invisible disabilities often face difficulties in proving their condition and in securing necessary accommodations.

Aboriginal and Torres Strait Islander peoples with disability often face worse discrimination across all sectors, especially within healthcare and the justice system described by the commission as a double disadvantage (Commonwealth of Australia, 2023h, p.39). In 2018, the Australian Bureau of Statistics reported that 24% of Aboriginal and Torres Strait Islander peoples living in households have a disability. However, this figure does not account for those not currently residing in households, suggesting that the actual number of individuals with disabilities may be even higher than reported.

Aboriginal and Torres Strait Islander peoples with disabilities often encounter significant discrimination, particularly within the justice system, with them being over-represented within the criminal justice system (Commonwealth of Australia, 2023f, pp. 36-37). Additionally, rates of disability were higher for Aboriginal people within the criminal justice system compared to non-Indigenous offenders (Commonwealth of Australia 2023f, p.38).

Aboriginal peoples with disabilities face an even greater risk of having their children removed, even when support is in place. For instance, Xanthe, a First Nations woman with a mild intellectual disability, shared how her children, Dream and Evelyn, were removed by the government department despite her having support in place. She believes the decision was based on her disability rather than evidence of harm. Xanthe only sees her daughters monthly and says Dream (her older daughter) wants to come home. Her children were placed with her mother, who she says undermines her. Now training as a youth worker, Xanthe hopes to prevent unnecessary child removals and reunite with her daughters. (Commonwealth of Australia, 2023a, p. 315).

Women with disabilities are at an elevated risk of domestic violence, largely because their voices are often dismissed, and they are more susceptible to abuse. It is crucial to acknowledge and address this inequality to protect vulnerable individuals. A story from the royal commission (Commonwealth of Australia, 2023a, pp. 190-191):

*“Natasha, who has a cognitive disability, shared her experience of medical negligence and exploitation. A decade ago, after separating from her husband, she collapsed during a camping trip and later suffered a brain injury requiring surgery. Hospital staff failed to recognise her needs, provided inadequate care, and appointed her estranged husband as her supervisor, enabling his financial and emotional abuse.*

*After fleeing to her brother’s home, Natasha divorced her husband but found the process unfair and overwhelming. She later faced homelessness, health issues, and further medical negligence. Although compensation was insufficient due to a lack of legal support, Natasha now has an advocate investigating her claims and believes advocacy can make a significant difference.”*

*Accessing specialised legal services is essential for individuals with disabilities, as the complexities of their circumstances often extend beyond the immediate legal issue at hand. Even in cases that may not seem directly related to their disability, the challenges they face in daily life can influence the outcome in unexpected ways. For individuals with multiple disabilities, this challenge is even more pronounced with mainstream legal services that may struggle to fully understand the intricate nuances and specific hurdles that these individuals encounter, which can significantly alter the legal strategies employed and the effectiveness of representation. A legal professional who is well-versed in disability rights and the unique needs of this community can provide tailored support that addresses these intricacies, ensuring that all aspects of a person's situation are considered in their legal matters.*



## ANALYSIS – PART 2 Human Rights & Access to Justice for Particular Groups

Specialised legal services play a crucial role in safeguarding the human rights of marginalised groups, including individuals with disabilities, women, Aboriginal and Torres Strait Islander peoples, those experiencing socioeconomic disadvantages, and individuals from culturally and linguistically diverse (CALD) backgrounds. These services are equipped with the knowledge and expertise to effectively address the unique challenges faced by each group, often resulting in more favourable outcomes for their clients. In 2013 United Nations Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul, called for effective legal aid systems that are broader than just criminal proceedings. Knaul stated,

*“Legal aid is both a right in itself and an essential precondition for the exercise and enjoyment of a number of human rights, including the rights to a fair trial and to an effective remedy”.*<sup>8</sup>

Knaul further recommended that legal aid be as broad as possible and be available for any ‘judicial or extra-judicial procedure aimed at determining rights and obligations’.<sup>9</sup>

### Current Specialised legal services in South Australia

#### Women’s Legal Service (SA)

An example of a specialised legal service in South Australia is the Women’s Legal Service, which provides free legal information, advice, assistance, and representation to vulnerable women in both metropolitan and regional areas, funded by the South Australian government. Their programs encompass a women’s specialist program, a family law and family violence program, the Aboriginal and Torres Strait Islander Women’s Program, the inDIGO domestic violence unit, and the ASK MARIA project aimed at women from culturally and linguistically diverse (CALD) backgrounds. Each year, the Service assists nearly 3,000 women, with 21% of those in 2020 identifying as having one or more disabilities.

The Women’s Legal Service champions women’s human rights by ensuring that those who cannot afford or access legal services receive fair and equitable treatment under the law. This commitment helps women achieve justice, feel safe, and actively engage in their communities.

Although this service is crucial for vulnerable women in South Australia, its primary focus on family law, domestic violence, sexual assault, and intervention orders may leave other legal needs of individuals with disabilities unaddressed. Furthermore, individuals who do not identify as women are ineligible for free legal support in the state.

In contrast, the Disability Rights Advocacy Service (DRAS), as a specialised disability service, experiences limitations in the number of clients it can assist due to restricted funding and its capacity to handle cases yearly. Consequently, women with disabilities may hesitate to seek assistance from a service that does not fully comprehend their unique needs or the available support options.

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<sup>8</sup> United Nations Office of the High Commissioner for Human Rights, Media Release, ‘Legal aid, a right in itself’, 30 May 2013, Geneva. Available at <<https://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13382&LangID=E>>.

<sup>9</sup> Ibid.

## Aboriginal Legal Rights Movement

The Aboriginal Legal Rights Movement's vision is

*“To pursue social justice, equality, and wellbeing for the Aboriginal people of South Australia, especially for those Aboriginal people who are detained in police custody or imprisoned.” (Aboriginal Legal Rights Movement, 2024)*

They offer culturally competent, free legal services for Aboriginal individuals in South Australia. Their services include advocacy, legal advice, and court representation. The Aboriginal Field Service employs field officers who travel to provide guidance on understanding rights, recording information related to charges, and increasing police awareness about appropriate interactions with Aboriginal individuals. Additionally, it has disability legal support, financial counselling, an Aboriginal Visitor scheme, a prisoner care program, and the Help A Sista Out program.

The Service also addresses law and justice topics and reforms to promote and protect the legal, cultural, economic, political, and social rights of Aboriginal people. Their team that possesses extensive knowledge and lived experience in the field, the Service offers tailored support that helps individuals understand their rights and achieve better outcomes.

The Aboriginal Legal Rights Movement service also provides a Disability Legal service of their own that caters to not just the disability but their cultural needs as well, as Aboriginal and Torres Strait Islander people's cultural understanding of disability may not align with the more Western model (Commonwealth of Australia, 2023, p.33). For Aboriginal People with disability, this service is a great option and is good that it is available for that demographic.

DRAS is a service that is committed to cultural safety and works to ensure equitable access to their services and work with a wide range of clients including Aboriginal and Torres Strait Islander Peoples and people from CALD backgrounds.

### Disability Discrimination Legal Service Inc (Victoria)

The Disability Discrimination Legal Service (DDLS) is a legal organisation based in Victoria that provides free services in various areas, including information, referrals, advice, and casework assistance. This service specializes in legal matters related to disability discrimination and the sexual harassment of women with disabilities in the workplace. They also engage in community legal education, providing information to both professional and community groups about the Disability Discrimination Act 1992 (Cth) and the Equal Opportunity Act 2010 (Vic). Additionally, they advocate for policy and law reform and often take on cases that aim to advance disability discrimination law.

This service provides a vital gap in disability rights advocacy, as when it comes to discrimination cases, it can be harder than just advocacy services. Discrimination cases that must go further legally are often risky as individuals can be up against large employers that can afford expensive lawyers and to even stand a chance the individual would have to as well; this would relieve some of the burden taken on by the person with a disability. Additionally, as a specialist service, it is knowledgeable in disability and discrimination cases.

From DDLS's 2023-2024 Annual report

*“DDLS undertakes casework for people with disabilities under the Disability Discrimination Act (Cth 1992) (“DDA”), and the Equal Opportunity Act (Vic 2010) (“EOA”). This involves providing advice and on-going assistance to people with cases before the Australian Human Rights Commission (“AHRC”), the Federal Court of Australia, the Federal Circuit & Family Court of Australia, the Victorian Equal Opportunity & Human Rights Commission (“VEOHRC”) and the Victorian Civil and Administrative Tribunal (“VCAT”) under the Human Rights Division. In addition, the*

*Service supports people who decide to conduct their own cases and assists disability advocates to manage cases on behalf of their clients. In January 2023, DDLS commenced a workplace sexual harassment and discrimination service for women with disabilities. DDLS recognises the importance of not only direct casework assistance, but also the need to increase awareness of the rights and responsibilities under disability discrimination laws through strategic community legal education (“CLE”) projects. Increasingly, these projects engage people with disabilities in the delivery of services or developing CLE resources and publications produced in hard copy or available on the internet. DDLS also works toward legislative and policy reforms for issues pertaining to disability discrimination in the private and public sectors by conducting activities such as research, projects, lobbying and submission writing. Through challenging and changing discriminatory laws and procedures, the DDLS can assist many more people with disabilities than would otherwise be possible.”<sup>10</sup>*

Unlike a service like DRAS, this service is very specialised within disability and does not have separate advocate services but does refer people to them. Due to limited funding, they are more selective on cases, so the criteria are based on public interest principles.

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<sup>10</sup> Retrieved From <https://ddls.org.au/wp-content/uploads/2024/11/Annual-Report-2023-2024.pdf>

## ANALYSIS – PART 3 Gaps in the provision of disability legal services in South Australia

The provision of government-funded legal assistance in Australia is subject to a complex framework of federal and state funding agreements, principles and strategies. These include the *National Strategic Framework for Legal Assistance*, the *National Legal Assistance Partnership* (NLAP) and the *South Australian Legal Assistance Action and Strategy Plan 2022-2025*. The *National Strategic Framework for Legal Assistance* provides the overarching policy for all government legal assistance funding. It aims to create a unified and coordinated approach to legal assistance, focusing on keeping the justice system accessible and maintaining the rule of law. The framework sets out six principles:

1. Focus on people facing disadvantage.
2. Client-centred and appropriate services.
3. Collaboration and integrated approaches.
4. Timely responses and preventative action.
5. Empowerment and resilience.
6. Continuous learning and improvement

The *National Legal Assistance Partnership* (NLAP) supports the *National Strategic Framework* by ensuring integrated, efficient, and effective legal assistance services. It is a multilateral agreement between the Commonwealth and state/territory governments, providing financial contributions to support legal aid commissions, community legal centres, and Aboriginal and Torres Strait Islander legal services. The NLAP aims to improve outcomes for vulnerable people who cannot afford private legal services. In November 2024, the Commonwealth, state, and territory Attorneys-General agreed to the new National Access to Justice Partnership (NAJP) 2025-30, which will commence on July 1, 2025, following the expiry of the NLAP.

In each of these documents, agreements and strategies, there is a strong commitment to ensuring high-quality services are available to the most vulnerable members of our community, including people with disability. For example, the National Access to Justice Partnership (NAJP) 2025-30 includes a commitment to ‘enhanced access to justice’ and ‘tailored legal assistance to people with disabilities’, and recognises the need to support specialised programs and initiatives designed to assist people with disabilities in navigating the legal system ([National Access to Justice Partnership 2025-30](#)).

The *South Australian Legal Assistance Action and Strategy Plan 2022-2025* also includes a commitment to provide ‘targeted services for vulnerable South Australians’ and ‘specialist services for particular client needs’ (p. 7) and refers to the Legal Services Commission’s Disability Information and Legal Assistance Unit as providing specialised information and legal advice for South Australians with disability, as well as their supporters and advocates (p. 7). However, as noted above and discussed further below, in South Australia, there is no specialist free legal service that supports people with lived experience of disability. This is despite past surveys and analysis suggesting that ‘the relationships between disability and increased prevalence [of legal problems] were often among the strongest’ and that ‘[p]eople with disability had the ‘highest levels of legal needs’ and ‘high vulnerability to a broad range of legal problems’ in comparison to other disadvantaged groups examined<sup>11</sup>.

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<sup>11</sup> Christine Coumarelos et al, LAW Survey, 77 as quoted in <https://lawcouncil.au/files/web-pdf/Justice%20Project/Final%20Report/People%20with%20Disability%20%28Part%201%29.pdf>

Across Australia, legal aid and basic legal services are available to low-income individuals who cannot afford a lawyer. However, the definition of "low income" varies between jurisdictions, leaving a significant portion of the population—often referred to as the "missing middle"—without access to adequate legal support (Sackville, 2018, p. 133). This group is frequently forced to represent themselves, which can be financially and emotionally draining, often leading to disadvantageous outcomes (Sackville, 2018, p. 135).

The Law Council of Australia's position paper on addressing the legal needs of the missing middle defines this group as, a '*group of individuals who do not meet eligibility criteria for public funded legal services yet lack the resources to afford a private lawyer's assistance*' (2021, p.3). The paper states the cases where the 'missing middle' had the highest unmet needs included civil cases, family law, litigation, wills, estates, probate and elder abuse, and emergency responses.

For people with disabilities in the 'missing middle', the situation is even more challenging. Disability-related expenses and unstable or lower-paying jobs exacerbate financial pressures (AIHW, 2024). Furthermore, for people who do qualify, existing community legal services often fail to account for the unique challenges and accessibility needs of individuals with disabilities (Gibson, 2010, pp.127-128). This lack of understanding can result in feelings of discrimination, being disregarded, or not being taken seriously, ultimately increasing the risk of unfavourable outcomes in legal disputes (Gibson, 2010, pp.127-128). Either way people with disability are more likely to be at a disadvantage before starting.

As Sackville highlights:

*"Legal representation is about upholding equality before the law: the idea that all people and institutions alike are subject to the law, protected and bound by it. It's about putting people on equal footing with their opponents in litigation to ensure that if theirs is a defensible, meritorious legal position, they have a real chance at a favourable outcome."(Sackville, 2018, p.136)*

Despite recent federal government investments in the form of the National Access to Justice Partnership (NAJP) 2025-30, the legal assistance sector remains chronically under-resourced. As the Law Council of Australia said in 2024<sup>12</sup>

*"More is required ... to address key areas of identified unmet need within the legal assistance sector. This includes, for example, increased resourcing of legal aid commissions to expand current means testing arrangements and increase grants of legal aid to facilitate legal representation for some of our most marginalised members of society, especially in rural, regional and remote areas of the country.*

*"Over 70 per cent of legal aid approved matters are assigned to private practitioners. However, it is becoming increasingly unviable for the private profession to offer support to legal aid clients under current conditions. This leaves many individuals without the legal help they require to navigate complex legal systems such as family law disputes."*

As the Law Council has explained, when legal services to people in the 'missing middle' (including people with disabilities) particularly at the early stages of an issue, the consequences can be grave.

*"Matters may not be resolved appropriately and justly, and legal and human rights may not be realised. In addition, the following flow-on effects may arise: existing*

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<sup>12</sup> Retrieved From <https://lawcouncil.au/media/media-releases/national-access-to-justice-partnership>

*legal issues become more complex, entrenched and difficult to resolve; new legal problems emerge because of the failure to address earlier problems, noting that clusters of problems are clearly identified in existing legal needs research; there are more self-represented litigants in the courts, resulting in additional costs and delay; and governments face increased costs in other areas, because of the need to provide ongoing support to those whose legal issues are not resolved and who experience further difficulties as a result” (Law Council of Australia, 2021, pp.8-9)*

At the State level, despite the existence of the Disability Information and Legal Assistance Unit within the Legal Services Commission SA, there remains acute and unmet legal need among South Australians with disability and their families and carers.

This is in part due to funding caps placed on the provision of legal assistance by the Legal Services Commission SA. For example, in a State criminal law case, the funding cap is

*\$50,000 if the case involves one defendant; or*

*\$100,000 if the case involves multiple defendants.*

*In a State civil law case the funding cap is \$60,000.*

*In a children’s care and protection case the funding cap is*

*\$12,500 for each party; and*

*\$17,500 for independent representation for the child.*

*([https://lsc.sa.gov.au/cb\\_pages/funding\\_guidelines.php](https://lsc.sa.gov.au/cb_pages/funding_guidelines.php))*

Other limited eligibility impacts access to legal aid funding. For example, funding is not normally granted in

*a commercial case, including a dispute over a failed business or a business debt, a guarantee, a liquidation, directors' liability, a contract, a commercial mortgage or the sale and purchase of a business;*

*a compensation case, including a claim for injury caused by a traffic accident, medical or dental negligence, a work injury, a criminal injury, a matter resulting from unsafe premises or a claim for loss due to professional negligence;*

*a complaint against a professional or the police;*

*a conveyancing matter;*

*a criminal case where there is no real risk of imprisonment;*

*a defamation case;*

*a civil action;*

*a neighbour dispute, including a dispute involving fences, trees, noise, car parking and water run-off;*

*a probate matter, administrations or a claim on a deceased estate;*

*an action to obtain an intervention order; or*

*opposing an application for an intervention order; or*

*an unfair dismissal case.*<sup>13</sup>

However, as noted above, in addition to these barriers, lack of access to legal services for persons with disability is also caused by an absence of a specialist services designed by and delivered by persons with lived experience of disability, and with holistic advocacy expertise that create an environment of trust and depth of expertise for clients and their families.

This is supported by the following analysis of the unmet need for legal services experienced by people with disability has been undertaken by the Law Council of Australia in its Justice Project Report (2018, p.4)

*“People with disability experience high levels of legal need and are vulnerable to substantial and multiple legal problems. Legal problems are often related to non-legal needs, such as health problems, unemployment, social isolation or homelessness. People with disability have high levels of interaction with the criminal justice system in particular – as both victims and offenders. People with disability, especially women, have heightened vulnerability to crime and abuse. For example, people with an intellectual disability are ten times more likely to experience violence and three times more likely to be victims of assault, sexual assault and robbery compared to those without an intellectual disability. Prisoners with disability are particularly vulnerable to violence, abuse and mistreatment in custody.*

*There is also a striking over-representation of people with disability, especially Aboriginal and Torres Strait Islander peoples, in the criminal justice and corrections systems. People with disability comprise around 18 per cent of the Australian population, but almost 50 per cent of the adult prison population. Cognitive or psychosocial disability is particularly common in prison. A 2010 Senate Inquiry found that approximately 98 per cent of Aboriginal and Torres Strait Islander inmates have cognitive impairment. Children and young people with disability are similarly over-represented. In Western Australia’s only youth justice facility, 89 per cent of youth detainees have at least one form of severe neurodevelopmental impairment. This is one of the highest reported rates in the world.*

*Many people with disability who encounter the criminal justice system have a long history of undiagnosed or untreated impairment, despite multiple previous interactions with government agencies or services. Concerted efforts by governments on increasing resources for targeted prevention and early intervention approaches and programs for people with disability are needed. Such approaches include developing strategies for better identification of disability, facilitating access to mental health services and rehabilitation programs, and dissemination of accessible community legal education and information.*

*People with disability face a wide range of systemic and structural barriers to accessing justice. Such barriers include inaccessible legal information, inflexible court procedures, negative attitudes and stigma towards people with disability and an under-resourced legal assistance sector. These barriers are the manifestation of the physical, cultural and social environment failing to*

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<sup>13</sup> Retrieved from [https://lsc.sa.gov.au/cb\\_pages/funding\\_guidelines.php](https://lsc.sa.gov.au/cb_pages/funding_guidelines.php)

*accommodate the needs of people with disability so as to enable them to participate in the justice system on an equal basis with others.”*

This analysis has been further supported by case studies compiled by the Law Council of Australia in 2018 that remain illustrative of the unmet need for disability-specific legal services in south Australia. One such case study is replicated below.

#### Case study

‘Glenn’s story illustrates multiple factors of vulnerability and disadvantage, and clustering of legal issues. At times I will step away from his story to highlight how it fits within the known schematic of legal needs. It isn’t a typical case but not an isolated one either. The Registrar of the [Administrative Appeals Tribunal] referred Glenn to me. The appeal involved cancellation of Glenn’s disability support pension. He was self-represented against specialist Government lawyers. Government legal problem cluster. ...

Glenn was a Mid-late 40s man living alone in a ramshackle cottage. ... Glen was shy and socially isolated. He belittled and name-called himself constantly. His appeal files showed he was granted an invalid pension at 16 for “mental retardation” – his IQ assessed variously between 70-80 points. After discussing this diagnosis, he said with surprise “I never knew I was retarded”. I reassured him that it wasn’t an apt description, but he was insistent – “that’s what the Doctor said.”

Despite his Intellectual impairment, he had never received support services. He left school at grade 7 there being no special school in his part of the north-west. He made his way in life without any specialist support or disability package. His pension was cancelled because he showed an ability to work. This was despite his dependence on a pension for 30 years prior.

Once or so a week he attended a mower repair shop and tinkered with small engines. He was unpaid and showed up despite suffering bullying and abuse from co-workers. He even suffered a number of small injuries – mostly aggravations of older injuries from his previous “work”. Employment and injury legal problem cluster.

His housing was tenuous, an overpriced, small, rundown cottage without hot water. When his pension was cancelled, he was at risk of homelessness. Housing legal problem cluster.

Glenn’s tenancy was in a SEIFA quintile 1 area – another strong indicator of legal need.

Glenn’s health was marginal, he hadn’t seen a doctor in years, he needed knee surgery and had poorly controlled diabetes. His diet was dreadful and he possessed limited cooking skills: he drank lots of cordial, ate tomato soup with white bread and butter and porridge. His false teeth hadn’t been fixed for some time and he avoided hard foods. Health problem cluster.

It is well known that legal and health issues coalesce, hence the increased use of health justice partnerships.

His story involved a substantial exploitation. He was deeply aware that his life hadn’t been good. He was a sparing drinker to the point of almost teetotal but his “mates” turned up without fail every pension day to help him celebrate his account flush with new funds. His “mates” coerced him to obtain Endone from his GP for their purposes. Criminal problem cluster.

His Mother had warned him to steer clear of drugs. He got emotional at times talking about his Mum. For good reason; when his mother died his world fell apart.

He carried a grubby letter from his mother addressed “to whom it might concern”. You could see how much it had been folded and handled. It told part of his story. It said his Dad died. I learned he had been a violent alcoholic who died in his midlife. Mum’s note effectively said he had a good heart but was not best smart. Glenn told me that his dad and his brother beat him from time to time until his mother intervened. But she was also a victim of her husband’s violence and was often assaulted by him. Family problem cluster.

Glenn and his brother inherited a pub from their Mum – which had been where they lived. It wasn’t a big pub, just a typical Queenslander pub. Glenn worked for many years for room and board only despite his half share. His brother, the executor and Glenn’s attorney had used a dodgy power of attorney to transfer the pub into his name solely. The brother used violence to control Glenn. Unsafe work practices had left him with back, neck and knee problems. He lived in the basement with the kegs. His job was stacking fridges and carrying heavy things around in the basement where he lived.



Eventually he wound up in Hospital with renal failure where he spent a month. He didn't return to the Pub and after some time, the brother sold the pub. Glenn saw nothing from the sale and the brother "retired" to Thailand, taking the proceeds and leaving a trail of debts. The brother had been a regular sex tourist, as if we needed something else to paint him as villainous Rights problem cluster.

At some stage he moved south to Townsville and we don't have time today to fill in that part of his life. I'm pleased to say there is a relatively happy ending to the story.

The Senior Member hearing the appeal brought an end to the parts matter mid-way through the Department's cross-examination, for him equal gruelling and mystifying process. I used pro bono counsel in that case, a rare thing for me. That barrister now a Federal Circuit Court judge told me afterwards, Glenn's appeal was among his most proud moments.

Glenn went back onto DSP with arrears. We referred him for tenancy assistance and his house was repaired. We made an application for the then Housing priority list. We referred Glenn to a counselling and advocacy organisations to develop strategies to deal with his historical and recent exploitation and abuse. He got him involved with a nearby medical practice so his health issues could be attended including the priority wait list for his knee surgery.

For a few years he used to come back and see me every few months, bring me a small gift, or to deal with another legal matter, mostly minor things. I haven't seen him for many years now'

Disability Rights Advocacy Service have identified that 60% of their advocacy clients require legal advice over and above their need for advocacy assistance. This is an unmet legal need for a priority group as identified by the National Legal Assistance Partnership Review. For DRAS, people with lived experience of disability are more likely to engage with people with experience in the sector; active recruiting of staff with lived experience of disability should form a pillar for any organization providing legal assistance to people with lived experience of disability. The Disability Rights Advocacy Service (DRAS) has a dedicated team with specialised knowledge and experience regarding the issues faced by people with disabilities. Their advocates are well-trained to provide the support and understanding necessary to ensure these individuals receive the assistance they need.

### National Disability Insurance Scheme (NDIS)

As of June 2024, 56,733 South Australians receive support from the NDIS (NDIS, 2024). The NDIS does not cover legal costs, but participants can use their support to be able to access the justice system, this includes transport to lawyers, courts and other legal needs; helping participants communicate with their lawyer and have more resources and capacity to deal with non-legal issues. While having access to NDIS support for non-legal needs is beneficial for participants, it does not eliminate all burdens. Some gaps remain, particularly regarding confidentiality concerns when a support worker is involved in communication. There is also uncertainty about whether there is true understanding on both sides.

DRAS is currently facing a high volume of NDIS appeal cases due to significant gaps in the appeals process. Participants are experiencing challenges such as limited funding and insufficient legal assistance. Additionally, advocates often cannot participate in hearings, NDIS access requests, or plan reviews. As a result, participants find themselves at a considerable disadvantage in hearings, lacking the experience and knowledge needed to navigate the process. Furthermore, they typically have no access to funding for these types of applications. This situation leaves many NDIS participants unrepresented against the experienced counsel and lawyers who represent the NDIS in this area. The appeals system is designed in a way that does not support individuals with disabilities, preventing them from accessing the vital assistance they need.

DRAS Legal has achieved notable outcomes in several cases involving the NDIS. One case involved a client who suffered injuries due to a provider's negligence. After seeking assistance from DRAS Legal, the dedicated team negotiated a settlement of \$10,000, providing financial relief to the client who had endured both physical pain and emotional distress. In another instance, a client appealed to the

NDIA to include additional supports in her statement of participant supports. With ongoing engagement in the appeals process, DRAS Legal collaborated closely with the client's advocates to clarify the settlement process. Their efforts culminated in a satisfactory resolution for the client.

Additionally, DRAS Legal represented two vulnerable clients facing debt recovery actions from a service provider. The clients disputed the debt, raising concerns about improperly charged items. In response, DRAS Legal successfully applied to represent them in the minor civil division of the magistrate's court. Through negotiations, they were able to have the disputed charges removed, resulting in a favourable settlement for the clients involved.

Overall, the expertise and commitment of DRAS Legal have led to successful resolutions that not only address legal disputes but also prioritize the well-being and support of their clients.

## Key Findings and Options for Reform

In line with the above analysis, this Briefing Paper finds that a specialist, free legal service that supports people with lived experience of disability is needed in South Australia in order to address critical gaps in existing systems and barriers to access to justice, and to ensure the protection and promotion of the human rights of persons with disabilities in our community. The Disability Discrimination Legal Service Inc (Victoria) provides a possible model to consider, and the Disability Rights and Advocacy Service (SA) (DRAS) is ideally placed to facilitate such a service.

Having specialist lawyers servicing this vulnerable section of our community would begin to make long-lasting change to the way in which people with disability can access and use the legal assistance sector. It would also align with the South Australian Legal Assistance Action and Strategy Plan 2022-2025 which is designed to address the inequality of access to justice for all South Australians.

This Briefing Paper further finds that such a service must be accompanied by:

- increased funding for disability advocacy service in South Australia, noting that advocates who have lived experience of disability are particularly vital, as they offer a deeper understanding and personal insight into the challenges faced by those with disabilities;
- disability-specific legal aid funding to ensure that individuals with disabilities can access the resources they need when fighting for their rights;
- the introduction of specialist human rights legislation in South Australia, in the form of a Charter of Human Rights or Human Rights Act, that provides specific protection for the rights of persons with disabilities, and access to legal remedies for breach.

These key findings and options for reform are discussed in further detail below:

### Addressing human rights gaps through increased funding for disability advocacy services

In the context of the ongoing cost-of-living crisis, many individuals, especially those with disabilities, are increasingly finding it challenging to engage in volunteer advocacy. This trend is resulting in a decrease in the number of disability advocates available to assist others in advocating for their rights. Advocates who have lived experience of disability are particularly vital, as they offer a deeper understanding and personal insight into the challenges faced by those with disabilities. By increasing funding for these programs, we could hire more skilled advocates who could dedicate additional time to this essential community work.

The process of applying for and appealing decisions within the NDIS can be both lengthy and complex. Without proper advocacy, individuals may struggle to determine where to begin, secure the necessary funding, and understand their rights when interacting with NDIS service providers. The guidelines and definitions employed by the NDIS are broad and often subjective, especially concerning what qualifies as a permanent disability and how the NDIA assesses impairments. Individuals with disabilities and their caregivers should not need to undertake extensive study of the NDIS system to navigate it effectively; however, many are left to do so alone if they cannot access supportive advocacy services.

An example from DRAS:

*'A single mother of four children with Autism was finding it difficult to complete a self-referral for an Autism Assessment for herself. She had written 17 pages of notes to include, but the form was only 4 pages long. Together we were able to prioritise her notes, and utilising dot points get the most important aspects to make her application concise. The client was very pleased with this, as she had been waiting months prior to receiving assistance through DRAS Advocates.'*

## Provision of disability-specific legal assistance funding

Disability-specific legal funding is crucial for ensuring that individuals with disabilities can access the resources they need when fighting for their rights. People with disabilities face greater risks in the legal system due to the higher costs of living associated with disability-related expenses and their lower average earnings compared to non-disabled individuals (AIHW, 2024). These financial pressures often make pursuing justice an unattainable goal without targeted support.

Currently, free advocacy services with legal representation are stretched thin. Limited funding forces these organisations to prioritise cases based on urgency and available resources, leaving many people without the help they need. Time-sensitive cases are often given priority, while other equally significant issues are sidelined. Disability-specific legal funding would bridge this gap, enabling more equitable access to justice. By removing financial barriers and expanding the capacity of advocacy services, this funding would empower people with disabilities to assert their rights without the added burden of navigating an already unequal system.

The Disability Discrimination Legal Service Inc (Victoria) provides a possible model to consider. This service operates under the following Statement of Purpose which aligns with the human rights principles articulated above. The Statement of Purpose provides:

*To promote the objectives of the Disability Discrimination Act 1992 (Cth) and the Equal Opportunity Act 2010 (Vic) ('the Acts') and other relevant domestic and international human rights instruments (human rights legislation) in relation to disability. These objectives include:*

*the elimination of discrimination on the basis of disability;*

*that people with disabilities have a right to equal treatment before the law and;*

*to promote community understanding that people with disabilities have the same fundamental rights as the rest of the community.*

*To provide leadership in State and Federal arenas for legal and policy reform in areas where there continues to be systemic failure that leads to discrimination on the grounds of disability or impairment.*

*To provide free and easily accessible legal advice, referral and casework services to people with disabilities and to people/organisations who assist or work with people with disabilities in relation to the Acts.*

*To prioritise cases that will further develop disability discrimination law.*

*To initiate and participate in the development of education outreach and information distribution to promote awareness of the Acts and human rights legislation.*

*To achieve law reform outcomes that reduce disability discrimination by initiating and participating in reviews of Federal, State and international human rights legislation relevant to the needs of people with disabilities.*

However, consideration should also be given to expanding the scope of any specialist legal service in South Australia to ensure the provision of accessible, full-funded legal advice to clients that extend beyond the area of discrimination law and addresses other high-priority legal needs including those relating to housing, family law, criminal law, domestic and family violence and administrative law.

## Enacting human rights legislation to promote a culture of rights compliance in service delivery and to enhance legal pathways for remedies for breaches of rights

As of December 2024, there is currently no legislation in place to safeguard the human rights of South Australians. In 2023, the Social Development Committee (SDC) commenced a parliamentary inquiry into the possibility of establishing a Human Rights Act for South Australia, with submissions closing in February 2024. Currently, there has been no update on the inquiry, although several organisations, including DRAS, have made submissions supporting the call for a stand-alone human rights law such as a *Human Rights Act* in South Australia.

Proponents of a Human Rights Act explain that it will create a legislated framework that articulates and protects human rights and improve the way our parliament, government and public entities develop laws, policies and make decisions. Human Rights Acts have already been passed in the Australian Capital Territory (2004), Victoria (2006) and Queensland (2019) These laws are ordinary acts of parliament that can be amended, and they provide protection for rights based on the *International Covenant on Civil and Political Rights (ICCPR)* and the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*. The protected rights could also encompass those rights set out in the UNDRIP and described above.

The proponents of a South Australian Human Rights Act support a law that is similar to the legislation already in place in the ACT, Victoria and Queensland. This means that a Human Rights Act for SA could:

1. Articulate and protect in law human rights and freedoms that Australia has agreed to uphold under core United Nations international human rights instruments. This would include civil and political rights, like freedom of association and freedom from torture, as well as economic, social and cultural rights such as rights to language, education and healthcare without discrimination.
2. Require Parliament to consider our human rights when passing and amending legislation;
3. Require public entities, such as state government departments, local councils, state schools, the police and all organisations performing a public function in SA to act compatibly with human rights.
4. Enable SA courts and tribunals to interpret legislation consistently with human rights and empower them to issue a declaration for Parliament to consider if they find that a law breaches human rights or require the Attorney-General to inquire into the law;
5. Provide accessible, simple, low-cost pathways that people can use to make a complaint and seek a solution if their human rights are breached, such as is already the case for complaints under existing anti-discrimination legislation.

For DRAS and other disability advocates, enacting a Human Rights Act or Charter is essential to fill the gaps in existing South Australian laws, including gaps in existing anti-discrimination laws. It would also help create a 'culture of rights' compliance within the public service, and amongst public decision-makers which would in turn improve the efficiency and quality of disability services and help secure the economic and social empowerment of people with disability in South Australia.

This can be illustrated by the following case study:

Amy, a 22-year-old woman living with ADHD, Bipolar Disorder, and C-PTSD, had been working as an aged care worker for about three years, primarily in nursing homes. Although she generally concealed her disabilities, she chose to disclose them to a few trusted colleagues. She worked at one facility for a year but ultimately left due to chronic understaffing and the stress it caused. She then found a new position at another nursing home, where things initially seemed promising. However, out of fear of discrimination, she decided not to disclose her disabilities to anyone at the new workplace.

One night, while attending to a resident in the dementia unit with another carer, Amy was kicked into a wall, injuring her back and causing significant emotional trauma. She contacted her union, which helped her secure leave to recover and ensured she wouldn't have to work with that resident again. Despite this agreement, when Amy returned to work, management repeatedly assigned her to care for the same resident. Even when other staff members offered to switch shifts, management refused. Financial constraints left Amy with no choice but to comply.

The ongoing situation worsened her physical and emotional health. Eventually, Amy visited her doctor, who provided a medical note stating that she needed this reasonable adjustment due to her disability. However, management responded by refusing to let her work at all unless the doctor rescinded the reasonable adjustment. After enduring prolonged stress, resistance and intimidation from management, Amy felt she had no option but to resign. She decided not to go after for discrimination due to financial reasons.

In this case, Amy was put into a situation where if she fought for her rights work was taken away from her as a punishment and was told if she couldn't do all the work, she was unable to be a carer. She eventually left the industry due to burnout. Disability-related discrimination cases for invisible disabilities are harder to prove and enforce and especially in industries like aged care and disability, people are seen as replaceable and not worth providing reasonable adjustments.

In addition to facilitating improved access to legal information and advice about their rights to equality for people like X in the case study above, a Human Rights Act for South Australia could save resources and improve the overall quality and efficiency of government decision making, including in disability services. Such economic benefits are borne out in submissions made to the SDC inquiry. The efficiency gains associated with human rights issues being dealt with 'upstream' as opposed to 'downstream' were highlighted by the Public Law and Policy Research Unit in their submission:

*"South Australia presently only has downstream mechanisms, which means our courts and other review bodies (e.g. Ombudsman SA) risk being clogged with problems which could have been spotted via an upstream mechanism, i.e. by those developing policy and drafting law. Unfortunately, these existing downstream mechanisms in SA are not aimed at human rights protection.*

*One set of these existing downstream mechanisms are the courts and other review bodies. There are already immense pressures on their workloads. Where improvements can be made, that will also be conducive to greater efficiency. If human rights issues are attended to before becoming problematic, the whole legal system and the community will benefit."*

Further, as Academic members of the University of South Australia's Justice and Society Unit<sup>14</sup> have stated:

*"[r]ights-enhancing laws and policies that have been subject to meaningful community and expert consultation save resources because they are more likely to achieve their stated policy aims, and less likely to have unintended consequences or disproportionate impacts on certain groups within our community. When laws*

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<sup>14</sup> The authors of this submission (listed as submission #52 on the Committee's website) are Dr Michelle Fernando, Dr Michele Jarldorn, Dr Kerrilee Lockyer, Matt Ryan, Professor Jennifer McKay AM, Kerry Maxfield, Taylor Jobling, Associate Professor Joe McIntyre.



*and policies are made in the absence of these key features, or when causes of injustice or inequality go unattended to in our community, the economic costs can be significant. For example, KMPG estimated that the total cost of violence against women and their children in Australia in 2015-16 was \$22 billion.<sup>1</sup> In South Australia, there were 3,164 family and domestic abuse related offences recorded in the first quarter of the financial year from 2020-2021. During 2019-2020 the South Australian Police reported 8,855 family and domestic abuse-related offences, up 7.4% from the previous year. These grim statistics show that the current legislative and policy settings designed to tackle domestic and family violence are not yet having the desired impact and could benefit from expert and community review. Other tragic examples of costly and traumatic failures to protect human rights in South Australia include the death of Ann Marie Smith and the large number of incidents of persons with intellectual disabilities facing barriers when seeking to access appropriate education or other services.”*

In other words, a human rights act is economically efficient through two mechanisms. First, it enhances the quality of decision-making in the public service, which leads to savings by reducing challenges and litigation relating to those decisions. In this way, a human rights act is a proactive investment that avoids later expenses incurred in reacting to inappropriate decisions through individual complaints and challenges or broader inquiries. Second, considering human rights when designing and implementing government policies makes it more likely that the policy objectives will be achieved, which leads to greater efficiency.

#### Author’s Concluding Statement

As the author of this paper and an individual with lived experience of disability, I recognise that my current position is a result of the advocacy efforts made by those who came before me. Although we have made considerable progress, there is still much work to be done to ensure that disability rights are fully upheld. People with disabilities need to be empowered to advocate for their rights and to have access to justice. As this quote within the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, states:

*“A rights-based approach to disability is not driven by compassion, but by dignity and freedom. It seeks ways to respect, support and celebrate human diversity by creating the conditions that allow meaningful participation by a wide range of persons, including persons with disabilities. Instead of focusing on persons with disabilities as passive objects of charitable acts, it seeks to assist people to help themselves so that they can participate in society, in education, at the workplace, in political and cultural life, and defend their rights through accessing justice”.<sup>15</sup>*

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<sup>15</sup> United Nations Human Rights Office of the High Commissioner, *The Convention on the Rights of Persons with Disabilities, Training Guide, No 19*, 2014, p 10. As cited in, Commonwealth of Australia. (2023b, September 29). Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Final Report - Volume 4, Realising the human rights of people with disability. Retrieved From: <https://disability.royalcommission.gov.au/publications/final-report>

## Bibliography

- Aboriginal Legal Rights Movement. (2024). *Our vision and values*. Retrieved from: <https://www.alrm.org.au/our-vision-and-values/>
- Aitken, Z., Baker, E., Badland, H., Mason, K., Bentley, R., Beer, A., & Kavanagh, A. M. (2019). Precariously placed: Housing affordability, quality and satisfaction of Australians with disabilities. *Disability & Society*, 34(1), 121–142. <https://doi.org/10.1080/09687599.2018.1521333>
- Australian Bureau of Statistics, Disability, Ageing and Carers, Australia: Summary of Findings 2019 (Catalogue No 4430.0, 24 October 2019).
- Australian Human Rights Commission (AHRC) (2024) *United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)*. Retrieved From: <https://humanrights.gov.au/our-work/disability-rights/united-nations-convention-rights-persons-disabilities-uncrpd>
- Australian Institute of Health and Welfare (AIHW). (2024). *People with disability in Australia*. Retrieved from <https://www.aihw.gov.au/reports/disability/people-with-disability-in-australia>
- Beer, A., Daniel, L., Baker, E., & Lester, L. (2020). The Shifting Risk of Homelessness among Persons with a Disability: Insights from a National Policy Intervention. *International Journal of Environmental Research and Public Health*, 17(18), 6512. <https://doi.org/10.3390/ijerph17186512>
- Bonaccio, S., Connelly, C. E., Gellatly, I. R., Jetha, A., & Martin Ginis, K. A. (2020). The Participation of People with Disabilities in the Workplace Across the Employment Cycle: Employer Concerns and Research Evidence. *Journal of Business and Psychology*, 35(2), 135–158. <https://doi.org/10.1007/s10869-018-9602-5>
- Cavanagh, J., Bartram, T., Meacham, H., Bigby, C., Oakman, J., & Fossey, E. (2017). Supporting workers with disabilities: A scoping review of the role of human resource management in contemporary organisations. *Asia Pacific Journal of Human Resources*, 55(1), 6–43. <https://doi.org/10.1111/1744-7941.12111>
- Christine Coumarelos et al, 'Legal Australia-Wide Survey: Legal Need in Australia' (2012) 7(1) *Law and Justice Foundation of New South Wales* 1, 18-9.
- Commonwealth of Australia. (2023a, September 29). *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Final Report - Volume 1, Voices of people with disability Book 1*. Retrieved From: <https://disability.royalcommission.gov.au/publications/final-report>
- Commonwealth of Australia. (2023b, September 29). *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Final Report - Volume 4, Realising the human rights of people with disability*. Retrieved From: <https://disability.royalcommission.gov.au/publications/final-report>
- Commonwealth of Australia. (2023c, September 29). *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Final Report - Volume 7, Inclusive education, employment and housing - Part A*. Retrieved From: <https://disability.royalcommission.gov.au/publications/final-report>
- Commonwealth of Australia. (2023d, September 29). *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Final Report - Volume 7, Inclusive education, employment and housing - Part B*. Retrieved From: <https://disability.royalcommission.gov.au/publications/final-report>
- Commonwealth of Australia. (2023e, September 29). *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Final Report - Volume 7, Inclusive education, employment and housing - Part C*. Retrieved From: <https://disability.royalcommission.gov.au/publications/final-report>
- Commonwealth of Australia. (2023f, September 29). *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Final Report - Volume 8, Criminal justice and people with disability*. Retrieved From: <https://disability.royalcommission.gov.au/publications/final-report>
- Commonwealth of Australia. (2023g, September 29). *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Final Report - Volume 10, Disability services*. Retrieved From: <https://disability.royalcommission.gov.au/publications/final-report>
- Commonwealth of Australia. (2023h, September 29). *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Final Report - Volume 9 First Nations people with disability*. Retrieved From: <https://disability.royalcommission.gov.au/publications/final-report>



- Commonwealth of Australia. (2023i, September 29). *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Final Report - Volume 1, Voices of people with disability Book 2*. Retrieved From: <https://disability.royalcommission.gov.au/publications/final-report>
- Commonwealth of Australia. (2023j, September 29). *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Final Report - Volume 1, Voices of people with disability Book 3*. Retrieved From: <https://disability.royalcommission.gov.au/publications/final-report>
- Cortese, C., Truscott, F., Nikidehaghani, M., & Chapple, S. (2021). Hard-to-reach: The NDIS, disability, and socio-economic disadvantage. *Disability & Society*, 36(6), 883–903. <https://doi.org/10.1080/09687599.2020.1782173>
- Department of Health and the British Institute of Human Rights (2007), *Human rights in healthcare: a framework for local action*; Victorian Human Rights Commission, 2008 ' - [https://acfid.asn.au/sites/site.acfid/files/resource\\_document/From-Principle-to-Practice-Implementing-the-Human-Rights-Based-Approach-in-Community.pdf](https://acfid.asn.au/sites/site.acfid/files/resource_document/From-Principle-to-Practice-Implementing-the-Human-Rights-Based-Approach-in-Community.pdf);
- Disability Discrimination Legal Service. (2024) *Annual Report 2023/2024*. Retrieved From: <https://ddls.org.au/wp-content/uploads/2024/11/Annual-Report-2023-2024.pdf>
- Disability Rights Advocacy Service (DRAS) (2021). *Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability – Access and Inclusion to Housing*. Retrieved From: [https://www.dras.com.au/\\_files/ugd/af6ca1\\_a098269a443d4678aba580473bae519c.pdf](https://www.dras.com.au/_files/ugd/af6ca1_a098269a443d4678aba580473bae519c.pdf)
- Disability Rights Advocacy Service (DRAS) (2024) *Annual Report 2023-2024*. Retrieved From: [https://www.dras.com.au/\\_files/ugd/1da3de\\_311107825f3f4984b5cef08a71a96566.pdf](https://www.dras.com.au/_files/ugd/1da3de_311107825f3f4984b5cef08a71a96566.pdf)
- Fisher, K. R., Gendera, S., & Kayess, R. (2023). Reaching people who are marginalized in major disability policy reform. *Global Social Policy*, 23(1), 109–126. <https://doi.org/10.1177/14680181221075558>
- Gibson, F. (2010). Article 13 of the Convention on the Rights of Persons with Disabilities—A right to legal aid? *Australian Journal of Human Rights*, 15(2), 123–142. <https://doi.org/10.1080/1323238X.2010.11910873>
- Gray, A., Forell, S., & Clarke, S. (2009). *Cognitive impairment, legal need and access to justice*.
- Law Council of Australia. (2022) Principles for determining the appropriateness of online hearings. <https://lawcouncil.au/publicassets/6ffd5a6b-487f-ed11-9478-005056be13b5/Principles%20for%20determining%20the%20appropriateness%20of%20online%20hearings%20-%20Final%20Nov%202022.pdf>
- Law Council of Australia. (2021) Addressing the legal needs of the missing middle, <https://lawcouncil.au/publicassets/dbfb44f8-7558-ec11-9444-005056be13b5/2021%2011%2030%20-%20RP%20Addressing%20the%20legal%20needs%20of%20the%20missing%20middle.pdf>
- Law Council of Australia. (2018) The Justice Project Final Report - Part 1 People with Disability <https://lawcouncil.au/files/webpdf/Justice%20Project/Final%20Report/People%20with%20Disability%20%28Part%201%29.pdf>
- Mellifont, D., Hancock, N., Scanlan, J. N., & Hamilton, D. (2023). Barriers to applying to the NDIS for Australians with psychosocial disability: A scoping review. *Australian Journal of Social Issues*, 58(2), 262–278. <https://doi.org/10.1002/ajs4.245>
- Moschion, J., & van Ours, J. C. (2021). Do transitions in and out of homelessness relate to mental health episodes? A longitudinal analysis in an extremely disadvantaged population. *Social Science & Medicine*, 279, 113667. <https://doi.org/10.1016/j.socscimed.2020.113667>
- National Disability Insurance Agency, 'The NDIS in Each State: South Australia', NDIS (Web Page, 20 August 2024) <South Australia | NDIS>.
- Office of the United Nations High Commissioner for Human Rights, "A Guide for Integrating Human Rights Into Organisational Practice and Culture", Business Leaders Initiative on Human Rights, United Nations Global Compact, Office of the United Nations High Commissioner for Human Rights
- Prince, M. J. (2017). Persons with invisible disabilities and workplace accommodation: Findings from a scoping literature review. *Journal of Vocational Rehabilitation*, 46(1), 75–86. <https://doi.org/10.3233/JVR-160844>
- Rowe, S., Dowse, L., Baker, M., & Baldry, E. (2022). Policing disability: Alliance building, police divestment and community investment. *Current Issues in Criminal Justice*, 34(2), 171–187. Scopus. <https://doi.org/10.1080/10345329.2022.2029084>
- Sackville, R. (2018). Law and Poverty: A Paradox. *University of New South Wales Law Journal*, 41(1),

80–99.

Temple, J. B., Kelaher, M., & Williams, R. (2018). Discrimination and avoidance due to disability in Australia: Evidence from a National Cross Sectional Survey. *BMC Public Health*, 18(1), 1347. <https://doi.org/10.1186/s12889-018-6234-7>

UK Audit Commission (2003). Human rights: improving public service delivery [www.audit-commission.gov.uk/Products/NATIONAL-REPORT/FDE9C6A9-7DAF-4cd3-B21E-21E9E13E1D43/HumanRightsreport.pdf](http://www.audit-commission.gov.uk/Products/NATIONAL-REPORT/FDE9C6A9-7DAF-4cd3-B21E-21E9E13E1D43/HumanRightsreport.pdf).

United Nations. (2006). *Convention on the Rights of Persons with Disabilities*. Treaty Series, 2515, 3.

United Nations (2024) *Global Issues - Human Rights*. Retrieved from: <https://www.un.org/en/globalissues/human-rights>

Victorian Council of Social Service (2008), Using the Charter in policy and practice: ways in which community sector organisations are responding to the Victorian Charter of Human Rights and Responsibilities. [www.vcross.org.au/documents/VCOSS%20docs/Human%20Rights/Using%20the%20Charter%20in%20Policy%20and%20Practice\\_email.pdf](http://www.vcross.org.au/documents/VCOSS%20docs/Human%20Rights/Using%20the%20Charter%20in%20Policy%20and%20Practice_email.pdf);

Women's Legal Service (SA). (2021). *Annual Report 2019-2020*. Retrieved From: [https://www.wlssa.org.au/\\_files/ugd/2be29a\\_3f8775abc99c4b5eb7ec988abf51bddb.pdf](https://www.wlssa.org.au/_files/ugd/2be29a_3f8775abc99c4b5eb7ec988abf51bddb.pdf)



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