

16 November 2025

The Hon Jinson Charls
Minister for Disability
Northern Territory Government

By Have Your Say portal & email: OfficeofDisability.DPSC@nt.gov.au

Dear Minister Charls

**RE: *Have Your Say* Submission – NT Disability Strategy Action Plan 2025-2029
- second Action Plan 2022-2025 (Action Plan 2)**

EXECUTIVE SUMMARY

The Northern Territory is at a critical reform moment. The introduction of Positive Duty under the *Anti-Discrimination Act 1992 (NT)*, combined with the findings of the Disability Royal Commission (DRC), the national Free & Equal discrimination law reform agenda, and the NT Department of the Chief Minister & Cabinet 2025–2030 Strategic Plan, offers a significant opportunity to shift the NT from a reactive system to one centred on prevention, rights, safety and lived experience leadership.

The NT Anti-Discrimination Commission (ADC) strongly supports the development of Action Plan 2 of the NT Disability Strategy and recommends embedding Positive Duty as a guiding framework across all five outcomes. This *Have Your Say* includes the response from both the ADC and the Community Visitor Program (CVP).

This submission incorporates insights from the Australian Human Rights Commission's IncludeAbility Framework, particularly the *IncludeAbility Final Report* and *Equality at Work: A National Framework for Disability Employment*. Both documents provide a strong evidence base demonstrating that:

- discrimination in employment is systemic, cultural and structural;
- prevention, leadership accountability and co-designed capability-building are essential; and
- governments must model best practice by embedding inclusive culture, workforce design and safe reporting pathways.

These findings align directly with the NT's Positive Duty, the DRC's prevention recommendations, and the NTPS EmployAbility Strategy.



The NT Anti-Discrimination Commission (ADC) strongly supports this Action Plan and recommends embedding Positive Duty, IncludeAbility principles, and lived-experience co-design across all outcomes.

1. The Case for a Prevention-Based Approach

Positive Duty – a legal requirement and a cultural reform tool

From January 2024, all NT organisations must take *reasonable and proportionate* steps to eliminate discrimination before it occurs. This aligns with:

- DRC recommendations calling for proactive safeguarding systems;
- Free & Equal reforms, which highlight positive duties as modern regulatory best practice;
- IncludeAbility’s Equality at Work Framework, which identifies *prevention, accountability, inclusive culture and leadership* as critical pillars for disability-employment reform.

The Framework calls for employers to fundamentally redesign their systems to prevent discriminatory barriers, reinforcing that Positive Duty is essential to implementing the NT Disability Strategy.

2. What the Data Tells Us – Structural Barriers Persist

The ADC’s 2024–25 Annual Report highlights ongoing, systemic discrimination affecting people with disability:

- 83 disability discrimination allegations were lodged, representing a continuing upward trend.
- 43% of all “failure to accommodate special need” complaints related to disability.
- 14% of vilification allegations were based on disability.
- Aboriginal people represented 38% of complainants; people from a non-English-speaking background 39%.

IncludeAbility data reinforces that workplaces and public services often lack:

- accessible recruitment systems,
- psychological safety and safe reporting cultures, and
- inclusive leadership.

These patterns show that disability discrimination is both systemic and intersectional, often entwined with race, poverty, remoteness, and language barriers.

3. CVP Findings – Inadequate Safeguards in Closed Environments

The Community Visitor Program’s 2025 Annual Report identifies significant, ongoing risks for people with complex cognitive disability under the Disability Services Act 1993 and Mental Health and Related Services Act 1998, particularly in forensic contexts:

- The NT remains the only jurisdiction without a dedicated forensic mental health hospital.
- People found *unfit to plead* continue to be detained in general correctional facilities.
- The Complex Behaviour Unit (CBU) at Darwin Correctional Precinct identified as “fit for purpose” to become a forensic mental health facility is still operated by Corrections, not NT Health.
- Women on supervision orders have no gender-responsive forensic disability environment and are placed in the general prison population.

These conditions breach disability rights, increase exposure to risk, and undermine national human rights standards.

The Disability Royal Commission (DRC) found that closed environments, including prisons, forensic disability units and mental health inpatient units are among the highest-risk settings for violence, abuse and neglect. CVP findings in the NT reflect this urgency.

4. Aligning With the NTPS EmployAbility Strategy

The NTPS EmployAbility Strategy 2024–2027 highlights major gaps in disability employment:

- Only 1.7% of NTPS employees identify as having disability, compared with 11.6% of the NT community.
- Agency Disability Action Plans are variable in quality.
- Workforce capability, leadership and system reform are required to shift culture and create safe, accessible workplaces.

The IncludeAbility National Framework (2023) expands on this, recommending:

- Leadership accountability for disability inclusion;
- Removing structural, cultural and attitudinal barriers;
- Co-designed workplace adjustments;
- Safe complaint and reporting pathways;
- Workforce inclusion reporting and transparency; and
- Psychological safety embedded into organisational practice.

Positive Duty provides a legal mechanism to ensure the NTPS meets these obligations.

5. The Critical Enabler: Fund the NT ADC to Deliver Co-Designed Positive Duty Training

To operationalise the Strategy's commitments, especially across Outcomes 1, 3 and 4, the NT Government must resource the ADC to:

- deliver specialised Positive Duty Disability training
- co-design content with lived-experience disability organisations, including First Nations disability advocates
- develop Territory-specific tools, policies, risk assessments and reporting frameworks
- support NTPS and funded services to implement system-wide reforms
- build prevention capability aligned with the DRC's and Australian Human Rights Commission's expectations

This aligns with the NTG Strategic Plan's commitments to:

- develop our people and capability
- strengthen community confidence
- improve accountability, ethical conduct and inclusion
- support regionally responsive and culturally capable service delivery

A co-designed training model ensures reforms are grounded in lived-experience expertise, as required by the DRC and consistent with Australian Human Rights Commission (AHRC) best practice.

6. Executive Recommendations

To ensure the NT Disability Strategy delivers meaningful outcomes, the NT Government should:

1. Embed Positive Duty across all five outcomes of the Strategy

Make prevention, capability building and governance central obligations for all NTG agencies and funded services.

2. Fund the ADC to deliver co-designed Positive Duty and disability rights training with disability organisations

Ensure consistent, safe, evidence-based implementation across the NT.

3. Address forensic disability as a priority reform area

Progress transition of CBU to NT Health, create gender-responsive forensic disability care, and expand CVP oversight.

4. Strengthen access, inclusion and universal design requirements

Ensure digital and built environments meet accessibility standards co-tested with lived experience.

5. Align implementation with the NTPS EmployAbility Strategy, IncludeAbility and NTG Strategic Plan

Use Positive Duty as a delivery mechanism for workforce inclusion, leadership accountability and systemic reform.

Conclusion

The NT Disability Strategy Action Plan has strong foundations. The next step is to ensure the Plan is supported by legislative force (Positive Duty), human-rights guidance (DRC, AHRC Free & Equal) and place-based oversight (CVP), and is implemented in partnership with people with disability.

With targeted investment in prevention and capability, particularly through a funded ADC-led, co-designed training model, the NT can lead Australia in building safe, inclusive, human-rights-centred systems for people with disability.

The ADC and CVP would value the opportunity to discuss our response to all five outcomes and are committed to working closely with the Department of Disability to drive this important reform forward.

Sincerely,



Jeswynn Yogaratnam
NT Anti-Discrimination Commissioner & Principal Community Visitor

Response to all 5 Outcomes:

Outcome 1: People with disability have rights and choices which are protected and respected

Do you agree with the priorities and actions? Why or why not?

Yes. The priorities under Outcome 1 align closely with both:

- the evidence emerging from the NT ADC's data, and
- the CVP's oversight findings in mental health and forensic disability settings.

In 2024–25 the ADC handled 305 complaints, with 44% made against government agencies.

Race, disability and sex discrimination remained core pressures: 93 race, 83 disability and 49 sex discrimination allegations were made in that period.

Notably:

- **39%** of complainants identify as living with a disability
- **38%** of complainants identified as Aboriginal and/or Torres Strait Islander
- **39%** were from a non-English speaking background, and
- **many complainants living with disability did not frame their experience as disability discrimination**, even though 21% of all enquiries were about disability.

This suggests rights breaches are both systemic and under-reported, particularly for Aboriginal people with disability.

The ADC has also seen a rapid uptake of new vilification protections: since 2023 there have been 109 vilification allegations, 55 of them in 2024–25 alone. The top attributes were race (16%), disability (14%) and religion (8%), most commonly in goods and services (34%) and work (30%).

This confirms that people with disability experience harassment and hate in the very systems that should protect them.

At the same time, the ADC recorded a rising number of allegations for failure to accommodate a special need, 43% of which related to disability.

This is exactly where Positive Duty must apply: organisations being told where their systems are not accommodating disability.

From a systems perspective, the CVP Annual Report FY2024-25 shows the Territory is still the only jurisdiction without a dedicated Forensic Mental Health Hospital,

leaving people found *unfit to plead* detained in correctional facilities alongside sentenced prisoners.

This is a clear rights risk for people with complex cognitive disability and a breach of anti-discrimination as well as the Optional Protocol to the Convention against Torture (OPCAT) aligned safeguards.

The CVP highlights that:

- people unfit to plead are managed in the Complex Behaviour Unit (CBU) at Darwin Correctional Precinct, which was found ‘fit for purpose’ to become a forensic mental health hospital, but remains operated by Corrections rather than NT Health;
- people with cognitive impairment who are not sentenced prisoners are held with general-population prisoners, including sex offenders; and
- there is no dedicated area for women on supervision orders, who are instead housed within the general prison population.

These circumstances sit squarely within Outcome 1’s concern for rights, safeguards, and freedom from violence, abuse and neglect.

Additional actions (with ADC / CVP / national context)

1. Fund the ADC to deliver co-designed Positive Duty training with disability lived-experience organisations

Building on the ADC’s strategic focus on Positive Duty and its strong training platform (93 sessions, 326 hours and over 1000 participants in 2024–25), a dedicated funding stream should enable the Commission to:

- co-design and co-deliver training with lived-experience disability organisations
- focus on reasonable and proportionate measures to prevent disability discrimination, vilification and failure to accommodate special needs, mirroring the AHRC’s Free & Equal recommendation that all discrimination laws adopt a positive duty to prevent discrimination.

This directly supports the NTG 2025–2030 Strategic Plan goal to “*drive strategic policy and priority reforms*” to rebuild community safety and restore the Territory’s lifestyle, while ensuring integrity and inclusion across public administration.

2. Embed forensic disability into the NT Disability Strategy

- Recognise people in forensic disability pathways (unfit to plead, supervision orders, Appropriate Places, CBU, Forensic Disability Unit) as a priority group in all safeguard and rights actions.

- Commit to transitioning CBU from Corrections to NT Health forensic services, as urged by the CVP, with trauma-informed, gender-responsive care.
- 3. Require NTG agencies to publish Positive Duty implementation plans for disability**
- Align these plans with the AHRC Free & Equal “preventative culture” pillar, making prevention, not just remedial complaint handling, the centre of NT’s response.
 - Explicitly link to the NTG Strategic Plan’s focus on integrity, ethical practice and inclusion in the NTPS.

Outcome 2: Inclusion, participation and community life

Do you agree with the priorities and actions?

Yes. However, ADC data indicates that discrimination in goods, services and facilities (37%) and work (30%) is where inclusion fails in practice.

Many of these environments are publicly funded or regulated.

The rise in vilification linked to disability in public spaces and services (14% of vilification allegations) reinforces that “community life” can be unsafe for people with disability without proactive anti-racism and anti-ableism strategies.

Additional recommendations (linked to Positive Duty & NTG strategic directions)

- Place-based inclusion audits for local government, arts, sport and community organisations, focusing on *prevention measures* rather than just complaints.
- Development of a “Disability & Inclusion – Positive Duty Toolkit” for clubs, NGOs and councils (modelled on Free & Equal’s preventative culture and co-regulatory tools), with ADC and lived-experience organisations leading design.
- Use the NTG Strategic Plan’s regional leadership goal to support regionally tailored inclusion initiatives, ensuring remote and Aboriginal communities co-design the ways participation barriers are removed.

Outcome 3: Access to places, information and services

Do you agree with the priorities and actions?

Yes. ADC complaint patterns clearly show that access to goods, services and facilities is consistently the largest area of complaint (37%), followed by work, accommodation and the administration of laws and government programs.

Failures to accommodate a special need, 43% of which relate to disability, are often embedded in service design, built environments and information systems, not just interpersonal attitudes.

The CVP's "In Focus" work on built environment and mental health wards shows that design choices can either uphold or undermine mental health and disability rights. It notes that "prison-like" designs, limited access to natural light and outdoor spaces and restricted activities in certain units at Royal Darwin Hospital work against recovery-oriented, trauma-informed care.

Additional recommendations

- Require NTG agencies and funded services to embed universal design and digital accessibility standards, co-tested with people with disability.
- Use Positive Duty frameworks so that service providers must routinely assess access barriers and document the "reasonable and proportionate measures" they have in place to prevent discrimination, consistent with Free & Equal's model.
- In high-risk environments such as hospitals, supervised accommodation, CBU and forensic disability settings, ensure that built environment changes are treated as a core part of rights-compliant care, not an optional upgrade.

Outcome 4: Economic participation

Do you agree with the priorities and actions?

Yes. Economic participation requires safe, inclusive workplaces and recruitment systems that value disability as part of workforce diversity.

The ADC's data shows ongoing discrimination in work, as well as unmet special needs and vilification affecting employment.

At the same time, the NTPS EmployAbility Strategy 2024–2027 sets out a clear commitment to:

- disability-confident workplace training

- updated agency Disability Action Plans, and
- targeted recruitment programs for people with disability, including leadership pathways and participation on NT Government boards and committees.

These strategies sit naturally within a Positive Duty lens being reasonable and proportionate measures that NTG, as an employer, should be taking to prevent disability discrimination.

Additional recommendations

- Make Positive Duty compliance an explicit pillar of the EmployAbility Strategy, with ADC guidance used as the key reference point.
- Require large employers and NTG agencies to publish disability employment, retention and promotion metrics, aligning with AHRC's Free & Equal emphasis on system-level regulatory tools and data-driven monitoring.
- Extend disability-informed governance training to board and committee members across NTG, consistent with CM&C's strategic goal to "*develop our people and capability*" and ensure integrity and inclusive decision-making.

Outcome 5: Health and wellbeing

Do you agree with the priorities and actions?

Yes. But the CVP's annual report illustrates that health and wellbeing for people with disability in the NT cannot be separated from forensic and mental health system design.

Key CVP observations include:

- The NT is the only jurisdiction without a dedicated forensic mental health unit; people unfit to plead are held in correctional facilities alongside sentenced prisoners, which the CVP identifies as a breach of rights and a failure to meet anti-discrimination obligations.
- The CBU remains a corrections-managed unit, despite being assessed as "fit for purpose" to transition to a forensic mental health hospital if an appropriate clinical forensic model of care were adopted.
- Women on supervision orders are detained within the general prison population, with no dedicated gender-responsive forensic mental health space.

This is squarely within the Disability Royal Commission's concern for closed environments and forensic disability and should be explicitly recognised in the Strategy under Outcome 5.

Additional recommendations

- Explicitly recognise forensic disability and compulsory mental health settings as priority environments for implementing disability-safe, trauma-informed models of care, co-designed with people with lived experience.
- Resource the CVP to expand oversight in line with DRC recommendations and national CV scheme reforms, including greater reach into NDIS-funded settings that function as de facto forensic environments.
- Use the Positive Duty framework to require NT Health, Corrections and other providers to demonstrate proactive risk assessments and prevention measures for disability-based harm and restrictive practices, echoing AHRC's national Free & Equal direction on preventative culture.

Overall summary and link to NTG strategic directions

Taken together, the ADC and CVP annual reports show that:

- discrimination, vilification and failure to accommodate special needs continue to affect people with disability in work, services, housing, public programs and closed environments;
- Aboriginal people and people from non-English speaking backgrounds are over-represented among complainants;
- forensic disability and mental health settings remain areas of acute rights risk, where legislative intent will not translate into lived safety without structural reform and oversight.

The AHRC's Free & Equal reform agenda and IncludeAbility- Equality at Work makes clear that modern discrimination law must:

- build a preventative culture through positive duties
- modernise regulatory tools so regulators can address systemic discrimination, and
- embed education and co-regulation to support organisations to comply.

The NT's Positive Duty provisions under the *Anti-Discrimination Act 1992 (NT)* place the Territory at the forefront of this reform vision. The NT Disability Strategy Action Plan now needs to:

1. Operationalise Positive Duty across NTG and funded services, especially in disability, mental health and forensic contexts.

2. Fund the ADC and CVP to lead co-designed training, oversight and systems improvement consistent with DRC recommendations.
3. Align implementation with the NTG 2025–2030 Strategic Plan and the NTPS EmployAbility Strategy, using their commitments to cross-government reform, regional leadership, capability building and inclusion as the enabling framework.

This approach turns the Strategy from a set of aspirations into a coherent, data-driven and legally grounded prevention agenda that honours both the DRC and the Free & Equal national reform blueprint.

References:

- Disability Royal Commission Final Report 2023; Volume 4 Realising the Human Rights of People With Disability;
- Evaluation of the Australian Human Rights Commission 'IncludeAbility' Project 2020-2023
- Australian Human Rights Commission's Free & Equal Report 2021;
- The NT Department of Chief Minister and Cabinet's Strategic Plan 2025-2030 –
- NT Anti-Discrimination Commission's Annual Report FY 2024-25
- Community Visitor Program Annual Report 2024-25