

Submission to Department of Social Services: Consultation on National Principles for the Regulation of Assistance Animals

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About the Justice and Equity Centre

The Justice and Equity Centre is a leading, independent law and policy centre. Established in 1982 as the Public Interest Advocacy Centre (PIAC), we work with people and communities who are experiencing marginalisation or disadvantage.

The Centre tackles injustice and inequality through:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change to deliver social justice.

We actively collaborate and partner in our work and focus on finding practical solutions. We work across five focus areas:

Disability rights: challenging discrimination and making the NDIS fairer to ensure people with disability can participate equally in economic, social, cultural and political life.

Justice for First Nations people: challenging the systems that are causing ongoing harm to First Nations people, including through reforming the child protection system, tackling discriminatory policing and supporting truth-telling.

Homelessness: reducing homelessness and defending the rights of people experiencing homelessness through the Homeless Persons' Legal Service and StreetCare's lived experience advocacy.

Civil rights: defending the rights of people in prisons and detention, including asylum seekers, modernising legal protection against discrimination, raising the age of criminal responsibility to 14, advancing LGBTIQ+ equality and advocating for open and accountable government.

Energy and water justice: working for affordable and sustainable energy and water and promoting a just transition to a zero-carbon energy system.

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Recommendations

Recommendation 1 – A Framework be legislated and implemented at a national level

The Principles should be redeveloped into a more detailed Framework, which is capable of being adopted by the Commonwealth Government as a comprehensive national scheme governing the definition and regulation of assistance animals, the processes for their recognition, and the rights they and their handlers are entitled to.

The Framework should be legislated and implemented as soon as reasonably practicable.

Recommendation 2 – The Framework be co-designed

The Framework should be developed through a co-design process including a wide range of representatives from the disability community, including particularly those who use assistance animals.

Recommendation 3 – The Framework be accessible and inclusive

The Framework must be accessible to all people with disability who need the rights and legal protections it confers, and not exclude people due to its cost, time or administrative burdens required for access, location, or other irrelevant factors.

The Framework must be inclusive of all people with disability who use assistance animals, respecting their choice of the most appropriate assistance animal for them and how they obtain and/or train that animal.

Recommendation 4 – Accreditation standards under the Framework not impose exclusionary requirements

The Framework should not impose requirements for accreditation of assistance animals that are inaccessible or non-inclusive, such as requiring animals to perform specific arbitrary numbers of 'tasks', being limited to certain types of disability (other than where this reflects expert opinion and disability community practice), or mandating specific forms of supply or training of assistance animals. In particular, the Framework should not adopt existing accreditation schemes that contain such inaccessible or non-inclusive features.

Recommendation 5 – Evidence requirements be as limited and flexible as possible

Requirements for assistance animal handlers to provide evidence of their disability and need for an assistance animal should avoid overly restrictive and onerous evidence requirements, and provide as much flexibility as possible in the type of evidence that will be accepted.

Recommendation 6 – The proposed national identity card state the public access rights of the cardholder

The proposed national identity card should provide clear information about the rights of the holder and their assistance animal to access public places, including with examples and an outline of the legal consequences of refusal.

Recommendation 7 – The rollout of the card and logo be accompanied by a public education campaign

The Commonwealth government should engage in a public education campaign as part of the rollout of the national identity card and logo to enhance public understanding of assistance animal users and their rights, and ensure widespread recognition of the card and logo.

1. Introduction

The Justice and Equity Centre ('JEC'), formerly the Public Interest Advocacy Centre, welcomes the opportunity to respond to the Department of Social Services ('Department') Consultation Paper on National Principles for the regulation of Assistance Animals ('Principles').

The JEC is a leading social justice law and policy centre. Our work focuses on tackling barriers to justice and fairness experienced by marginalised communities. We have a long history of involvement in public policy development and advocacy promoting the rights and equal participation of people with disability.

We have considerable experience in disability discrimination litigation, representing clients in claims in the Australian Human Rights Commission ('AHRC') and in the Federal Court of Australia ('FCA'). We work on related policy and law reform in consultation with disability advocates and Disability Representative Organisations.

Since July 2019, we have also used our legal and policy expertise to advocate for better outcomes for people with disability under the National Disability Insurance Scheme ('NDIS').

Assistance animals are a vital and clinically-proven support for people with disability, providing independence, confidence and safety. However, through our casework, we are aware of significant barriers faced by people with assistance animals, which deny them access to public spaces and services. This submission draws on our direct experience representing clients in litigation concerning recognition of their rights as assistance animal handlers, against private and public respondents including airlines, Uber and the National Disability Insurance Agency ('NDIA').

Our submission is structured in three parts. First, we present our overarching view of the Principles and the Consultation Paper's proposed approach to implementation. Second, we provide case studies and observations from our casework to exemplify the issues experienced by people who rely on assistance animals and to demonstrate how the Principles may or may not respond to those issues. Third, we address the guided questions for each of the six Principles.

2. Overarching comments: reform must go beyond Principles to include legislated national standards

Our first and primary comment on the Consultation Paper is that, regardless of the substantive content of the Principles, the proposed reforms do not go far enough to uphold the rights of people with disability who use assistance animals. All our subsequent comments and recommendations should be read in light of this overarching view, and our central proposition that guiding Principles alone cannot achieve the change that is sought.

2.1 The Principles need to be legislated and implemented at a national level

We welcome the Department's acknowledgement of the many problems faced by people who rely on assistance animals, stemming from a lack of recognition of their rights. This dynamic

informs our strong view that the form and substance of the Principles will not be enough to achieve the desired national consistency, and people who rely on assistance animals will continue to experience issues with recognition and refusal.

Our major concern is that it is unclear how the Principles will be implemented in practice. Assuming State and Territory disability Ministers agree to the Principles, the Consultation Paper says it will be the responsibility of their respective state and territory governments to implement them in their respective jurisdictions. We consider this fragmented implementation process is unlikely to achieve the uniformity sought, and will likely only replicate problems with existing frameworks.

The Consultation Paper and associated communication from the Department have made clear the Principles will only serve as a *guide* for state and territory governments. At the Disability Representative Organisations Forum on 7 April 2025, the Department said:

...we envisage that the national principles would provide that consistent goal of what we should all be aiming towards, and that the States and Territories would be considering that in their appropriate legislation.¹

Additionally, the Consultation Paper concedes that implementation will vary across states and territories depending on their starting point:

This may just involve assessing their current accreditation against the principles and seeking agreement on an identity card. Other jurisdictions may need to draft or change legislation, and setup new functions for accreditation and assessment.²

This 'guidance' approach leaves significant room for inconsistent implementation. The Consultation Paper's example suggests states and territories will self-assess what work is required to align their current systems with the Principles. This leaves significant room for jurisdictions to assess their preferred framework to be consistent, even where significant practical divergence remains. It also does not provide any incentive for states and territories to do more than the bare minimum to achieve compliance with the Principles.

We make these observations based on the previous approach to assistance animal accreditation which mirrors this proposed 'guidance' approach. When the *Disability Discrimination Act* ('DDA') was first enacted,³ it was expected that state and territory frameworks would emerge to accredit assistance animals.⁴ However, in 2003, the Human Rights and Equal Opportunity Commission observed this had not occurred.⁵

In a further attempt to address the issue, the DDA was amended in 2009 to create a Commonwealth accreditation option while also incorporating state or territory accreditation

¹ Department of Social Services, 'Disability Representative Organisations Forum' (Transcript, 7 April 2025) 10.

² Department of Social Services, *National Principles for the Regulation of Assistance Animals Consultation Paper* (7 March 2025) 6 ('Consultation Paper').

³ *Disability Discrimination Act 1992* (Cth) ('DDA').

⁴ Human Rights and Equal Opportunity Commission, *Assistance Animals under the Disability Discrimination Act* (Discussion Paper, 2003) <<https://humanrights.gov.au/our-work/disability-rights/discussion-paper-assistance-animals-under-disability-discrimination-act>>.

⁵ *Ibid.*

schemes.⁶ This incorporation was intended to promote ‘certainty’ that states and territories can accredit assistance animals;⁷ given this encouragement it was once again expected these jurisdictions would create clear accreditation frameworks.⁸ However, in the 15 years since s 9(2)(a) was inserted into the DDA, only one jurisdiction has created an accreditation system for assistance animals that reflects the breadth of the DDA’s provisions.⁹

At present, there are four state and territory jurisdictions with accreditation schemes, of which three only accredit assistance *dogs* (and exclude other animals), notwithstanding the above DDA amendments.¹⁰ There are also two jurisdictions which only have a public transport-based accreditation system,¹¹ and two that have no form of accreditation system at all.¹² Each of these approaches shows the DDA’s model has not been adopted uniformly by states and territories, and strongly indicates the Principles’ further attempt to implement cross-jurisdictional consistency through guidance and encouragement alone will encounter similar obstacles.

Further, the Consultation Paper says each state and territory will establish their own timeframe for implementation. This means people who rely on assistance animals have no certainty when even this limited cross-jurisdictional consistency will be achieved, and will be faced with a further extended wait for a workable national system.

Given the above concerns, the proposed approach to the Principles and their implementation will not meaningfully protect the rights of people with disability and their assistance animals. The Consultation Paper presents a model for reform that simply reproduces the existing problems stemming from a patchwork of regulatory frames across jurisdictions, leaving far too much flexibility and potential divergence to the interpretation and discretion of state and territory governments. The resulting disjuncts will continue to breed confusion among the public, permit ongoing uneven treatment of assistance animal users, and fail to protect the rights of people with disability.

Instead, a comprehensive, national, legislated and enforceable framework is needed to ensure consistency (including in the definition of an assistance animal) and protect access rights across the country. Together with 11 national peak Disability Rights Organisations, we have called for a National Assistance Animal Framework (‘Framework’) that embeds, implements and actualises

⁶ Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008 (Cth) sch 2 item 17.

⁷ Senate, Standing Committee on Legal and Constitutional Affairs, Disability Discrimination and Other Human Rights Legislation Amendment Bill (February 2009, Report) 8 [2.18].

⁸ Ibid 30 [3.50]-[3.51].

⁹ *Domestic Animals Act 2000* (ACT) s 94; *Domestic Animals (Accredited Assistance Animal Public Access Standards) Determination 2023* (ACT) sch 1.

¹⁰ In Queensland, *Guide, Hearing and Assistance Dogs Act 2009* (QLD) pt 4, see especially ss 36-9. In South Australia, *Dog and Cat Management Act 1995* (SA) ss 21A, 81. In Western Australia, *Dog Act 1976* (WA) s 8; Department of Local Government, Sport and Cultural Industries, *Assistance Dog Approvals* (Policy, 31 January 2024).

¹¹ Transport for New South Wales, *Assistance Animals* (Policy, December 2022); Public Transport Victoria, *Assistance Animal Pass* (Web Page) <<https://www.ptv.vic.gov.au/tickets/myki/concessions-and-free-travel/assistance-animal-pass/>>.

¹² The Northern Territory and Tasmania have no formal accreditation system. See, eg, *Guide Dogs and Hearing Dogs Act 1967* (TAS); *Anti-Discrimination Act 1992* (NT) s 4A; Charles Darwin University, *Assistance Animals Procedure* (Policy, 16 February 2022) [10].

the Principles.¹³ The Framework, which would regulate and accredit assistance animals nationally is needed to replace the current inconsistent patchwork at the state and territory level – it will remove the need for private and public actors creating their own policies. The Australian Government should redevelop the Principles into the more comprehensive Framework and legislate it at the Commonwealth level, to meet the needs of people with disability and remove current barriers to access.

The redevelopment of the Principles into the Framework will require significant changes to their form and substance. For example, the accreditation requirements referred to in Principle 1 will need to be defined in detail as part of that Framework. This, and other details, must be developed and settled through a co-design group established by the Australian Government with the disability community, and be representative of the diversity of people who use assistance animals.

We note the DDA is the legislation that governs the rights and responsibilities with respect to assistance animals, and that it has already been flagged for reform.¹⁴ It is important the Framework be developed concurrently with these planned DDA reforms, to ensure the legislation operates harmoniously and can remain inclusive and flexible to meet the needs of people with assistance animals.

Recommendation 1 – A Framework be legislated and implemented at a national level

The Principles should be redeveloped into a more detailed Framework, which is capable of being adopted by the Commonwealth Government as a comprehensive national scheme governing the definition and regulation of assistance animals, the processes for their recognition, and the rights they and their handlers are entitled to.

The Framework should be legislated and implemented as soon as reasonably practicable.

Recommendation 2 – The Framework be co-designed

The Framework should be developed through a co-design process including a wide range of representatives from the disability community, including particularly those who use assistance animals.

2.2 Implementation must be accessible and inclusive

Implementation of these Principles and/or our proposed Framework must be accessible to, and inclusive of, people with assistance animals. In this sense, ‘accessibility’ requires the cost, time and documentation to satisfy legal requirements for recognition of an assistance animal not be burdensome on people with disability, and be reasonably available to people in all parts of the country. ‘Inclusivity’ requires the Principles/Framework to protect people’s choice – including,

¹³ Justice and Equity Centre et al, ‘Joint Statement Calling for People with Disability’s Access to Assistance Animals to be Protected’ (Statement, 20 March 2025) <https://pwd.org.au/wp-content/uploads/2025/03/Joint-Statement-calling-for-a-National-Assistance-Animal-Framework_20-March-2025.pdf>.

¹⁴ Department of Social Services, *Australian Government Response to the Disability Royal Commission* (July 2024) 59-60; Attorney-General’s Department, ‘Review of the Disability Discrimination Act’ (Web Page) <<https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/australias-anti-discrimination-law/review-disability-discrimination-act>>.

importantly, making legal recognition available to animals provided or trained by any person or organisation, including self-trained animals.

To illustrate, we consider the legal regime established by the *Guide, Hearing and Assistance Dog 2009 Act* (Qld) ('GHAD Act') is neither accessible nor inclusive. This is primarily because most GHAD Act-approved certifiers are also trainers, and will only certify assistance dogs they have trained themselves. However, it is not always appropriate for assistance animals to be trained by one of these specialist trainers, then later placed with their handlers – for example, it is common for psychiatric assistance animals to be trained by their handler so they can develop the human-animal bond necessary for the animal to provide psychiatric assistance. Another issue with the GHAD Act regime is its restriction of certification to only desexed dogs, which unreasonably excludes dogs that are entire for health and development reasons. These constraints mean many assistance animal users struggle to obtain certification under the GHAD Act, or are forced to obtain dogs through processes that do not match recommendations of their support teams or suit their personal choices.

A national system must avoid such pitfalls. Co-designing the Framework with the disability community is imperative to ensure it is accessible and inclusive.

Recommendation 3 – The Framework be accessible and inclusive

The Framework must be accessible to all people with disability who need the rights and legal protections it confers, and not exclude people due to its cost, time or administrative burdens required for access, location, or other irrelevant factors.

The Framework must be inclusive of all people with disability who use assistance animals, respecting their choice of the most appropriate assistance animal for them and how they obtain and/or train that animal.

3. Lessons from our casework concerning assistance animals

Notwithstanding our above concerns with the insufficiency of the proposed approach to implementation of the Principles, we appreciate the opportunity to contribute to the Department's consideration of the substance of an appropriate national regulatory framework. Our views in this regard are informed by our casework, where many barriers faced by our clients stem from private and public actors creating their own rules and adopting inappropriate decision-making approaches towards assistance animals in the absence of a coherent national framework. This arbitrary rule-making not only has immediate impacts on assistance animal users, but creates confusion for people with disability and decreases community acceptance and tolerance for assistance animals.

The following sections draw from our casework against airlines, rideshare and the NDIA, each illustrating issues relevant to the development of the Principles.

3.1 Airlines

The Full Court of the FCA has found – in litigation involving Virgin Australia Airlines – that an animal may be an assistance animal under the DDA and enjoy the corresponding legal protections and rights if it has received relevant training, regardless of who provided that training.¹⁵ However, s 98(6B) of the *Civil Aviation Act 1988* (Cth) allows regulations made under that Act to contain provisions that are inconsistent with the DDA. Sub-regulation 91.620(3) of the *Civil Aviation Safety Regulations 1998* (Cth) states:

The operator or the pilot in command of an aircraft for a flight may refuse to carry an assistance animal (within the meaning of the *Disability Discrimination Act 1992*) in the aircraft for the flight if the operator or pilot in command reasonably believes that the carriage of the animal for the flight may have an adverse effect on the safety of air navigation.

Other than sub-reg 91.620(3), there are no other civil aviation instruments setting out requirements for assistance animals.¹⁶

These intersecting legal regimes can encourage airlines to adopt policies about whether to approve assistance animals for travel, including imposing requirements for an animal's training or registration that present significant barriers for people with assistance animals accessing air travel in Australia.

3.1.1 Case study: Qantas' policy on assistance animals

Qantas' Criteria for Carriage requires, among other things, that a dog:¹⁷

...has been trained and certified or accredited by a training organisation or trainer that:

1. is a full member of Assistance Dogs International (ADI); or
2. is approved under the Queensland Guide, Hearing and Assistance Dogs Act 2009 (Queensland Act)...

The DDA definition of an assistance animal does not refer to training or accreditation under the GHAD Act or by ADI, and neither specifies training in a particular way or by a particular provider. Qantas' requirements also do not appear to directly correspond to a pilot's reasonable belief as to an animal's adverse effect on the safety of the flight.

In September 2022, Rachael Fullerton contacted Qantas to request approval for her assistance dog, Strike, to travel with her. Strike is trained predominantly by Rachael, with oversight and additional training from external experts, and satisfies the definition of an assistance animal in

¹⁵ *Mulligan v Virgin Australia Airlines Pty Ltd* (2015) 234 FCR 207 (Flick, Reeves and Griffiths JJ).

¹⁶ Sub-regulation 91.620(5) says Part 91 Manual of Standards may prescribe requirements relating to the carriage of animals on an aircraft for a flight. However, div 20.4 in Part 91 Manual of Standards does not currently prescribe any requirements for the carriage of animals.

¹⁷ 'Service Dogs', QANTAS (Web Page) <<https://www.qantas.com/au/en/travel-info/specific-needs/travelling-with-specific-needs/service-dogs.html>>.

s 9(2)(c) of the DDA. Strike's maintenance costs are funded by the NDIS, he has travelled with Virgin Australia on multiple occasions, and is approved for travel with Rex Airlines. Rachael provided Qantas with information including Strike's current Public Access Test and a NSW Government-issued public transport card. Qantas, however, relied on their policy and did not allow Strike to travel in the cabin because he was not approved under the GHAD Act or a member of ADI.

In October 2023, after Rachael's complaint to the AHRC did not resolve, [we represented Rachael in FCA proceedings](#) claiming that Qantas unlawfully discriminated against her on the basis of her disability. In July 2024, the case settled with [Qantas approving Strike](#) to travel in the aircraft cabin – but only after almost 2 years since her original request.

3.1.2 Case study: Air New Zealand's policy on assistance animals

Air New Zealand's policy on 'Travelling or Flying with a Service Dog' states:

Only 'certified service dogs' are permitted in the cabins of Air New Zealand domestic and international aircraft...

...

A **certified service dog** is a dog that has been trained by, and has current certification issued by, a recognised organisation confirming that the dog currently meets the recognised standard for a service dog.

...

A **recognised organisation** is a fully accredited member of Assistance Dogs International (ADI) or a full member of the International Guide Dog Federation (IGDF). Additionally this includes organisations as set out in the New Zealand Dog Control Act.¹⁸

Contrary to Air New Zealand's definitions of a 'certified service dog' and 'recognised organisation', the DDA does not require assistance animals to be trained and certified by a fully accredited member of ADI or a member of the IGDF.

In April 2024, Lisa contacted Air New Zealand to request approval for her psychiatric assistance dog, Lilly, to travel in the aircraft cabin. Lilly is accredited under a law of an Australian state or territory, and so satisfies the definition of an assistance animal in s 9(2)(a) of the DDA. Lisa provided Air New Zealand with information evidencing Lilly's accreditation. Air New Zealand declined to approve Lilly on the basis that she did not satisfy Air New Zealand's policy, as she

¹⁸ 'Travelling or Flying with a Service Dog', *Air New Zealand* (Web Page) <<https://www.airnewzealand.com.au/special-assistance-flying-service-dog>> (emphasis in original). The organisations authorised to certify dogs as 'disability assist dogs' set out in the *Dog Control Act 1996* (NZ) do not include Australian organisations (see sch 5).

was not certified by a 'recognised organisation'. We are representing Lisa in an ongoing review of Air New Zealand's decision to refuse Lilly.

3.1.3 Observations

These case studies demonstrate how businesses can set and rely upon requirements that go beyond the DDA's definition for passengers with assistance animals in ways that can unfairly restrict access to services.

Existing state and territory accreditation frameworks have not prevented airlines from creating their own rules. Qantas has selected one preferred state/territory framework (Queensland's GHAD Act) which creates further difficulties for people who do not have access to that accreditation framework. The proposed approach to implementation of the Principles would not address these problems, as inconsistent state and territory regimes are likely to continue.

By contrast, a national Framework which would regulate training and accreditation requirements, would address the problem and address Rachael and Lisa's experiences by giving a single clear set of criteria for Strike and Lilly to satisfy for all purposes and helping airlines operationalise and comply with the DDA.

3.2 Rideshare

We are currently supporting Paula Hobley in her ongoing litigation against Uber.¹⁹ Paula uses a guide dog. Between March 2021 and November 2022, on 32 separate occasions, Paula alleges she was refused service because she was travelling with her Guide Dog Vonda. We have spoken with many other assistance animal handlers who face similar refusals, and over the past few years several others have been the subject of public news reporting.²⁰

The scale and scope of the problem in rideshare services demonstrates the lack of broad understanding and enforcement mechanisms for existing laws. The inconsistency of state and territory regimes, which overlap with and leave gaps between the DDA's national provisions, results in a lack of broad social understanding of the rights of assistance animal users. The message that it is unlawful to refuse carriage to an assistance animal is diluted by these inconsistent definitions; and we have heard many anecdotal instances of drivers reporting

¹⁹ Justice and Equity Centre, *After 32 refusals, Guide Dog user Paula is taking on Uber for discrimination* (Media Release, 19 February 2025) <<https://jec.org.au/disability-rights/disability-discrimination/after-32-refusals-guide-dog-user-paula-is-taking-on-uber-for-discrimination/>>.

²⁰ See, eg, Megan Doherty, 'The Worst Offenders for Refusing Service to People with Guide Dogs in the ACT', *The Canberra Times* (online, 1 May 2025) <<https://www.canberratimes.com.au/story/8954805/canberra-man-challenges-uber-over-guide-dog-rides/>>. See also Cait Kelly, "'He Could Have Killed My Dog': Ride-Share Drivers Accused of Refusing Passengers with Guide Dogs', *The Guardian* (online, 24 April 2024) <<https://www.theguardian.com/australia-news/2024/apr/24/he-could-have-killed-my-dog-ride-share-drivers-accused-of-refusing-passengers-with-guide-dogs>>; Samantha Jonscher, 'Uber, Melbourne Airport Being Sued After Drivers Refuse Melbourne Teacher and Assistance Dog', *ABC News* (online, 14 November 2024) <<https://www.abc.net.au/news/2024-11-14/vic-uber-law-suit-melbourne-teacher-seeing-eye-dog-refused-servi/104597010>>; Caitlyn Sheehan et al, 'Brisbane Uber Drivers Repeatedly Refuse Blind Man Service Because of his Guide Dog', *ABC News* (online, 15 February 2023) <<https://www.abc.net.au/news/2023-02-15/brisbane-uber-refuses-blind-man-service-because-of-his-guide-dog/101975254>>; Matilda Marozzi, 'Legally Blind Woman Refused 23 Uber Rides in Six Weeks Due to Guide Dog Discrimination', *ABC News* (online, 10 July 2023) <<https://www.abc.net.au/news/2023-07-10/legally-blind-woman-refused-23-uber-rides-in-six-weeks/102559848>>.

confusion over the rights of assistance animal handlers and their obligation to accept assistance animals for carriage. A single, clear Framework with national identification signifiers would go some way to addressing this, where assistance animals would be clearly identified as such and drivers could receive the simple message that it is unlawful to refuse access to them.

3.3 NDIA

The NDIA makes decisions about whether the NDIS will fund assistance animals for participants. Its decisions are guided by a relevant Operational Guideline titled *Assistance Animals including dog guides*.

The edition of this Guideline issued on 20 June 2022 ('2022 Guideline') imposed three requirements which led to the NDIA refusing to fund assistance animals for NDIS participants:

- the requirement an assistance animal 'is trained to perform at least 3 tasks or behaviours which mitigate the effects of a person's disability' ('Requirement 1');²¹
- the requirement that a psychiatric assistance animal is provided where the participant's *only* psychiatric diagnosis is PTSD ('Requirement 2');²² and
- the requirement an assistance animal be 'specially trained by an accredited assistance animal provider' ('Requirement 3').²³

None of the above requirements reflect requirements in the *National Disability Insurance Scheme Act 2013* (Cth) ('NDIS Act') or the DDA.

In justifying Requirement 1, the 2022 Guideline cites a 2019 La Trobe University report authored by Dr Tiffani Howell. However, more recent research published in 2022 by Dr Howell and other international experts supersedes that 2019 report and recommends an assistance animal be defined as 'an animal who performs at least **one** identifiable task or behaviour'.²⁴

Requirement 2 leads to the absurd circumstance in which a person with only PTSD can be funded for an assistance animal, but if that same person acquires a further psychiatric diagnosis (such as anxiety or depression) they would no longer be eligible. Such comorbid diagnoses are common in relation to PTSD. This requirement also fails to recognise the wide range of psychiatric diagnoses in relation to which an assistance animal may be a vital support to a person.

Finally, in our view, Requirement 3 is inconsistent with the DDA; the DDA does not require provider accreditation. Further, in the case of the 2022 Guideline it is not clear what is an 'accredited assistance animal provider', given the lack of a nationally-accepted accreditation scheme.

²¹ National Disability Insurance Agency, *Assistance Animals including Dog Guides* (Policy, 10 November 2022) 2.

²² Ibid 9.

²³ Ibid 1.

²⁴ Tiffani J Howell et al, 'Defining Terms Used for Animals Working in Support Roles for People with Support Needs' (2022) 12(15) *Animals* <<https://www.mdpi.com/2076-2615/12/15/1975>> (emphasis added).

In 2022, the JEC represented a client, Sally,²⁵ in her appeal against an NDIA decision to refuse funding for her psychiatric assistance dog, Toby. Sally is diagnosed with Dissociative Identity Disorder, post-traumatic stress disorder (PTSD), major depression and anxiety. The NDIA refused to fund Toby on the basis that Sally and Toby did not satisfy Requirements 2 and 3. Sally's AAT case settled on the basis the NDIA reverse this refusal decision and fund Toby – but only after a stressful 18-month battle, where the NDIA ultimately agreed Toby was a reasonable and necessary support for Sally, notwithstanding those two requirements of the Guideline.

3.3.1 Observations

The issues with the 2022 Guideline stemmed largely from the lack of a coherent regulatory framework on assistance animals. Although above Requirements 2 and 3 do not appear in the most recent Guideline, this revision took several years of persistent advocacy and litigation, while further issues still remain.²⁶ That a Commonwealth agency with statutory responsibility for administering disability supports can adopt such a confused and unfair policy demonstrates the need for a clear, consistent framework.

It is not clear how implementation of the Principles by state and territory governments would have avoided such confusion by the NDIA, or would prevent imposition of future arbitrary requirements for recognising assistance animals. By contrast, if there was a single or harmonised regulatory structure for assistance animals, the NDIA and other government bodies with relevant responsibilities could adopt the Framework's accreditation provisions and definitions, resulting in more consistent and fairer decisions.

4. Draft Assistance Animal Principles

While we consider the Framework requires greater detail and a clear pathway to national enactment than currently provided by the Principles, we agree broadly with the substantive positions outlined by each of the draft Principles. We intend our below comments to inform a future co-design process – established by government, involving the disability community and particularly assistance animal users – to build the Principles into a comprehensive Framework.

4.1 Principle 1: Nationally consistent accreditation requirements

National accreditation requirements must balance the need for regulation and consistency with the need to be inclusive and flexible.

We are not aware of any suitable existing national or international standards that meet these requirements. In particular, the standards used by ADI, IGDF, or applicable per the GHAD Act, are not sufficiently inclusive because, among other issues, those regimes do not accredit animals provided or trained by a non-affiliate person or organisation. Additionally, these and other similar frameworks often involve lengthy wait times and expense, making them inaccessible to many

²⁵ Name has been changed.

²⁶ The removal of Requirement 3 follows from the recent Administrative Review Tribunal decision of *DRVV and National Disability Insurance Agency (NDIS)* [2025] ARTA 158, [74].

assistance animal users. Accreditation requirements must be designed and implemented so that they are available to people who self-train their assistance animals.

To align with the DDA, the accreditation should require the animal to perform a function to alleviate their handler's disability; however, this should not require the animal to perform a specific number of identified tasks.

Additionally, an accreditation scheme must be flexible and recognise different types of disability and animal. The process must be adaptable so as to reflect evolving scientific evidence and community practice.

To strike the right balance, and ensure accreditation requirements meet the needs of assistance animal users, it is imperative the requirements are developed through co-design with the disability community per our Recommendation 2 above.

Recommendation 4 – Accreditation standards under the Framework not impose exclusionary requirements

The Framework should not impose requirements for accreditation of assistance animals that are inaccessible or non-inclusive, such as requiring animals to perform specific arbitrary numbers of 'tasks', being limited to certain types of disability (other than where this reflects expert opinion and disability community practice), or mandating specific forms of supply or training of assistance animals. In particular, the Framework should not adopt existing accreditation schemes that contain such inaccessible or non-inclusive features.

4.2 Principle 2: Minimum assistance animal training standards

As outlined above, it is imperative the Principles and/or Framework continue to provide legal recognition and protections to people with disability who self-train their assistance animal. Accordingly, it is important that any minimum standards set do not exclude self-trainers by imposing unnecessary requirements that can only be met by organisations or particular people. To achieve this, we stress the importance of these standards being developed through a co-design process, and note that process must include people who use self-trained assistance animals.

4.3 Principle 3: Single national Public Access Test ('PAT')

A single national PAT must be designed to be accessible and inclusive. Any failures with accessibility of the PAT will deny the rights of the people the Principles are intended to protect.

As above, the co-design of the PAT should involve people with disability who use assistance animals; it is not enough to only involve professional dog trainers.

4.4 Principle 4: Evidence of disability and a need for an assistance animal

Recognising that evidence of disability and of the need for an assistance animal are important aspects of any framework, overly restrictive or onerous evidence requirements have created unnecessary barriers for people and should be avoided. Any requirement for evidence should be

limited to what is necessary for the purpose for which it is required, to limit the cost, resource burden and privacy intrusion on people with assistance animals. Evidence requirements should also be flexible, accepting a broad range of possible evidence, to ensure these legal protections are accessible to all people with disability who need them.

We agree with the position set out in the Consultation Paper that this evidence should only be collected once – by a national government agency – to remove the need for public and private organisations to do any separate check. Such further checks would be burdensome and invasive.

Recommendation 5 – Evidence requirements be as limited and flexible as possible

Requirements for assistance animal handlers to provide evidence of their disability and need for an assistance animal should avoid overly restrictive and onerous evidence requirements, and provide as much flexibility as possible in the type of evidence that will be accepted.

4.5 Principle 5: National identity card and logo

A national identity card should expressly state the public access rights of the cardholder, including listing examples of public places and explaining that refusals may breach relevant anti-discrimination laws. We otherwise defer to the co-design process for the remaining features of the card.

The roll-out of a national identity card should be complemented by a comprehensive public education campaign, to improve public awareness and ensure the national identity card is achieving its intended purpose.

Recommendation 6 – The proposed national identity card state the public access rights of the cardholder

The proposed national identity card should provide clear information about the rights of the holder and their assistance animal to access public places, including with examples and an outline of the legal consequences of refusal.

Recommendation 7 – The rollout of the card and logo be accompanied by a public education campaign

The Commonwealth government should engage in a public education campaign as part of the rollout of the national identity card and logo to enhance public understanding of assistance animal users and their rights, and ensure widespread recognition of the card and logo.

4.6 Principle 6: Animal welfare

Assistance animals for one cohort of people with disability may not be effective for another cohort, such that it is important to consider a diversity of assistance animals. As such, animal welfare parameters should consider this diversity and not exclude breeds (except for dangerous breeds) or sizes of assistance animals where this would unnecessarily limit the choices available to people with disability to select the animal that best meets their needs. To achieve this, animal welfare protections need to be co-designed with people who use assistance animals, not just dog trainers.