

# Review of the Anti-Discrimination Act 1977 (NSW)

## Community survey on unlawful conduct

### About this survey

The NSW Law Reform Commission is reviewing the *Anti-Discrimination Act 1977* (NSW) (ADA). The ADA prohibits discrimination, vilification, sexual harassment and victimisation.

We have prepared this survey to help people share their views on the ADA. The diverse views and experiences of our community are vital to our review. Your responses will help us understand the issues and make recommendations to the NSW Government.

This survey closes on **15 August 2025**.

### Content warning

This review and the survey deal with content that some people may find distressing. This includes discrimination, sexual harassment, and vilification.

If you need support, there are some free services you can contact.

These include [Beyond Blue <beyondblue.org.au>](https://beyondblue.org.au) and [Lifeline <www.lifeline.org.au>](https://www.lifeline.org.au).

### How to complete this survey

There are 13 questions in this survey.

- Question 1 is about confidentiality and privacy
- Question 2 is about your experience and why you are interested in this review
- Questions 3 to 13 are about particular aspects of the ADA.

All questions are optional except Question 1.

You can complete the survey:

- by completing this document and emailing your responses to [adareview@dcj.nsw.gov.au](mailto:adareview@dcj.nsw.gov.au), or
- [online](#).

## **Further information to help you complete the survey**

Our website has [further information about the ADA and this review](#).

This includes:

- a community summary, which summarises some key issues, concerns and ideas about the ADA, and
- an Easy Read consultation paper, which contains simple language and pictures to help make information easier to understand.

You can also visit the website of [Anti-Discrimination NSW](#) for accessible resources on discrimination and the complaints process.

## **Confidentiality and privacy**

You can choose to keep your answers anonymous or confidential.

If you choose to keep your survey response anonymous, we may refer to your answers in our publications. However, we won't reveal information that could identify you.

If you choose to keep your survey response confidential, we won't refer to your answers in our publications. As explained in our [privacy and information management policy](#), we'll keep your information confidential unless a law or other public interest reason requires us to disclose it.

### **Question 1: How can we use your responses?**

- ☐ You can refer to, and publish, my responses anonymously
- ☐ Don't refer to, or publish, my responses. I want my responses to be confidential

## Your experience

While this survey is anonymous, it would help our research to understand why you're completing this survey.

### Question 2: Why are you completing this survey?

Select all that apply:

- ☐ I have experienced discrimination, vilification, harassment or victimisation
- ☐ I work for, or represent people who experience discrimination, vilification, harassment or victimisation
- ☐ I responded to a complaint under the ADA about me
- ☐ I responded to a complaint under the ADA on behalf of an organisation
- ☐ Other (please detail):

### Question 2a: Would you like to tell us about your experience?

## Who should the ADA protect against discrimination?

Under the ADA, it's only unlawful to discriminate against someone based on:

- disability
- sex
- race
- age
- marital or domestic status
- homosexuality
- “transgender grounds”, or
- carers’ responsibilities.

These are called “protected attributes”.

Some people think the ADA should use different expressions. For example, “sexual orientation” instead of “homosexuality”.

Some argue this list is too limited, and the ADA should protect more people from discrimination.

### **Question 3: Who should the ADA protect from discrimination?**

## **When should it be against the law to discriminate against someone?**

The ADA only prohibits discrimination that happens:

- at work
- in education
- when goods and services are provided
- when accommodation is provided, and
- in certain activities of registered clubs.

It's only against the law to discriminate based on carer's responsibilities at work, and not in the other areas listed above.

**Question 4: Do you think discrimination should be against the law when it happens in the areas listed above? Why or why not?**

**Question 5: Should discrimination be against the law in other relationships, places or areas of life?**

## What is “discrimination”?

The ADA covers two types of discrimination: direct and indirect discrimination.

**Direct discrimination** is when someone with a protected attribute is treated less favourably, because of that attribute, than someone without that attribute. This builds on an idea of equality that focuses on treating people the same way. An example of direct discrimination is when an employer refuses to hire a woman because of her sex.

But some people need to be treated differently to promote an equal outcome or equal access to opportunity.

**Indirect discrimination** is when a rule or requirement that applies to everyone, unfairly disadvantages people with a protected attribute. For example, if an employer requires job applicants to interview in a room only accessible by stairs. This would disadvantage people who use a wheelchair.

### Question 6: Do you agree with these ways of understanding discrimination?

☐ Yes

☐ No

### Question 6a: If not, what does discrimination mean to you?

## Vilification

The ADA makes it against the law to incite hatred, serious contempt or ridicule of an individual or group based on a protected attribute, in a public act. This is “vilification”, sometimes known as “hate speech”.

The ADA prohibits vilification based on:

- race
- homosexuality
- transgender grounds
- having HIV/AIDS, and
- religious belief, affiliation or activity, including not having a religious belief or affiliation, or not engaging in religious activity.

Some people think these attributes could be expressed differently.

Another view is that the ADA should protect more people from vilification.

### **Question 7: Who should the ADA protect from vilification?**

### **Question 8: Do you have any other thoughts on the ADA’s approach to vilification?**

## Harassment

Sexual harassment is unwelcome sexual behaviour, like sexually suggestive comments, questions, gestures and physical contact.

The ADA makes it against the law to sexually harass someone in:

- employment
- education
- goods and services
- accommodation
- land dealings
- sport
- state programs
- bodies that confer trade or occupational qualifications, and
- employment agencies.

**Question 9: Where and when do you think sexual harassment should be against the law?**

**Question 10: The ADA only covers “sexual” harassment. Do you think the ADA should cover other types of harassment?**

☐ Yes

☐ No

**Question 10a: If yes, what other types of harassment?**



## Other ways of promoting equality

Some people think the ADA should do more to help achieve equality.

Some ideas include requiring employers and others with duties under the ADA:

- to take steps to prevent discrimination, harassment and vilification
- to provide adjustments to support people with protected attributes to participate in the community (for example, by building an access ramp).

Another idea is to make it easier for duty holders to implement “special measures”. These are benefits, programs or policies that support members of a disadvantaged group to exercise and enjoy their rights equally with others. For example, a targeted employment program.

Currently, duty holders need to get an exemption to do this, which can be time consuming. Laws in some other parts of Australia don’t require duty holders to go through an exemption process.

### **Question 11: Could the ADA do more to help promote equality in NSW?**

☐ Yes

☐ No

### **Question 11a: If yes, what would you like to see added to the ADA?**

## Exceptions

The ADA has many exceptions. This means that some, or all, of the ADA's protections don't apply in certain areas or to certain people.

We outline some of the key exceptions, and some issues we've heard about them, in our community summary (you can find this on the [ADA project page on our website](#)).

Some people think that the ADA's exceptions are too broad. Some say exceptions should only apply in limited situations and where there are good reasons for them.

**Question 12: When, if ever, should there be exceptions to the ADA's prohibitions against discrimination, vilification or sexual harassment?**

## Additional comments

**Question 13: Is there anything else you'd like to tell us about the ADA?**

## End of survey

Thank you for taking the time to complete this survey.

Your responses will help inform our recommendations to the NSW Government.

If you'd like to receive updates on our work, please [sign up to join our mailing list](#).