Reforming the Anti-Discrimination Act 1977 (NSW) to Recognise and Protect Carers

Submission to the NSW Law Reform Commission

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Executive Summary

This submission is made on behalf of the NSW Carers Advisory Council (The Council) in response to the NSW Law Reform Commission's review of the **Anti-Discrimination Act 1977 (NSW)**. This submission reflects both our experience and fulfills our functions as advocating for carers in NSW to raise their profiles and ease their burdens.

Purpose of the Submission

The Council calls for stronger, clearer, and enforceable protections for carers under the *Anti-Discrimination Act*, protections that genuinely reflect the lived realities of carers in all their diversity. Carers are workers, children, students, partners, and neighbours. Many of us are carers ourselves. We aim to ensure that all carers especially those experiencing multiple, overlapping forms of discrimination can fully and equally participate in public life, and be supported to thrive.

Central Concern

Despite being recognised under the *NSW Carers (Recognition) Act 2010*, carers remain invisible and undervalued within existing legal and policy frameworks. Unpaid care provided by family carers continues to be seen under a discourse of 'less than' due to its unpaid, private, and gendered paradigm. This is what Fine (2015) calls "invisible labour" whereby leaving carers outside the scope of enforceable protections. From our experiences and those we network with we know and have many stories of how carers remain undervalued in every sector - from employment to education and health. We believe this is because care is often hidden, for a myriad of reasons and it is treated as invisible labour, placing carers on the margins.

Carers experience discrimination on multiple levels, for example:

- Employment disadvantage and economic insecurity
- Poor mental health and burnout
- Discrimination in education, housing, and service systems
- Cultural stigma and institutional exclusion

The ground is complex, and the narratives surrounding caring are deeply interwoven with cultural expectations. Therefore, intersectional discrimination where gender, race, visa status, age, and care responsibilities converge; in our submission we highlight certain groups where this amplifies the discrimination faced by carers. Throughout our submission, we provide composite case studies which are examples that numerous members of the Council have experienced as carers.

> *Emily is a 32-year-old woman with an acquired brain injury and epilepsy following a motor vehicle accident. She lives with her older sister, Amina, who is her primary carer. Amina works part-time in hospitality on a casual contract. Their family migrated to Australia from Lebanon when Amina was a teenager, and she is now a permanent resident on a partner visa.*
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> *Amina often needs to take time off work at short notice when Emily has seizures or requires urgent medical attention. Despite her commitment to her job, Amina is frequently penalised by being rostered on for fewer shifts, excluded from team meetings, and told by her supervisor that "this job isn't really suitable for people with too much going on at home." She feels unable to speak up, fearing that her visa status and cultural background already place her in a vulnerable position.*
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> *Amina's experience highlights how discrimination against carers is amplified when it intersects with other factors such as race, visa status, gender, and precarious employment. While she is caring for a loved one with complex needs, she is simultaneously navigating workplace cultures that undervalue caregiving and fail to offer flexible or secure employment arrangements for carers like her.*

About the NSW Carers Advisory Council and the Carers (Recognition) Act 2010 (NSW)

The NSW Carers Advisory Council (The Council) advises government on unpaid carer issues by drawing on lived experience and systemic insights. Over 850,000 carers in NSW provide unpaid care for family or friends with disability, mental illness, chronic conditions, dementia, or frailty.

The Carers (Recognition) Act 2010 (NSW) formally acknowledges the vital social and economic contributions carers make. It defines a carer as someone providing ongoing unpaid care to people with disability, chronic or mental illness, or age-related frailty.

The Act includes the NSW Carers Charter, which sets out principles to guide how carers should be treated, being respected, valued, consulted in service planning, and supported to participate in work, education, and social activities. Public sector agencies and some organisations do consider these principles in their policies, promoting cultural change and some workplaces, we know provide flexibility for carers. However, these workplaces are exemplar of best practice, rather than the normal.

The Act established the Council; we are an advisory body comprising carers and stakeholders. We advise government on strategic priorities, monitors Charter implementation, and facilitates consultation with carers statewide.

However, the Act is symbolic and policy-guiding only, it does not create legally enforceable rights or obligations. Carers have no direct legal redress under this Act when facing discrimination, nor are employers, educators, or service providers mandated to accommodate caring responsibilities or address harassment and exclusion.

Our Central Concerns:

We raise a central concern about the persistent stigma and intersectional disadvantage faced daily by carers. We see stigma around caring is deeply rooted in societal paradigms about familial caring and biases about 'doing the right thing' in terms of caring for relatives often shrouded in cultural discourse. In addition, our lived experiences align with research which supports our call to action especially for specific groups of carers who experience significantly greater discrimination. We acknowledge that the Council we cover all carers and our voices many still leave some carers out, however in particular we highlight:

Women carers: We know from the representation on the Council that women are over-represented and burdened by gendered expectations. Women, like us, face entrenched workplace disadvantage and diminished financial security (Carers Australia, 2023; Workplace Gender Equality Agency, 2021). Many women live a lifetime trajectory of caring and now are often represented as the 'sandwich generation' of carers, caring for children, their parents and others in their communities. caught between caring for their dependent children and ageing parents (Miller & Brody, 1981; Australian Seniors, 2025). In Australia, 91 % of such carers are women, and approximately 40 % of them are also in paid employment (ABC, 2023; Australian Seniors, 2025). In 2022, data from the Household, Income and Labour Dynamics in Australia (HILDA) survey showed that women aged 50–69 were the largest group providing ongoing unpaid care, more than 12 % caring for an ageing parent or loved one with a disability. The situation highlights intersectional discrimination whereby gendered expectations push women into unpaid caring roles, which then affects their economic security, health, and career prospects (Women's Agenda, 2024; ABS, 2018). These systemic pressures disadvantage women disproportionately during their prime working and earning years.

Young carers: The Council has been working recently to highlight the needs of young carers. These are Student carers aged 15–25 are often invisible in education systems and face significant mental health and academic impacts (Doran & Drever, 2021). Educational institutions rarely recognise or record young carers as a distinct student group. Unlike students with disabilities or from culturally diverse backgrounds, there is no consistent mechanism for identifying or supporting young carers. The two young carers on the Council, have many stories from their lived experience about not being recognised in schools, or being punished for missing school due to caring responsibilities. They highlight that many young carers do not self-identify due to stigma, fear of being treated differently, or not realising their responsibilities are exceptional (Doran & Drever, 2021). Whilst the Council have engaged with Education, the system is large, and school without frameworks for young carers, fail to recognise, conversely this means young carers face discrimination within these systems. We highlight that schools and universities often lack training or frameworks to identify signs of caring responsibilities in students.

> *Ivy is a high-achieving student who, on paper, never raised concern. Despite being just 16 years old, she is the primary carer for her mother, who lives with a complex mental illness. Ivy manages daily household responsibilities, attends medical appointments with her mother, and provides emotional support, often in crisis situations. This means she frequently misses school days, has little time for extracurriculars, and completes assignments late or under pressure.*
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> *However, Ivy has always kept up her grades, often working late into the night after caring duties are done. Her teachers assumed she was simply quiet and independent. Because her academic performance never slipped, Ivy's caring role went unnoticed and unacknowledged.*
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> *Ivy never identified herself as a carer—she did not know it was a "category," and feared being treated differently or having her mother judged. Without any systemic framework to identify or support students like her, Ivy received no flexibility or wellbeing support from her school. She also internalised high levels of stress, isolation, and exhaustion, which she felt unable to share.*

Ivy's story illustrates how young carers can be invisible within education systems that lack the tools to recognise and support them. Her ability to "keep up" academically masked the discrimination she faced: a lack of recognition, support, and inclusion. Like many others, Ivy experienced the systemic failure of educational institutions to acknowledge and accommodate the needs of young carers, particularly when those needs do not conform to obvious or measurable academic deficits. As a result, policy makers and school systems lack data on how many students are affected, what support they need, and what outcomes they experience. "Without data, there is no visibility. Without visibility, there is no policy." (Hinton & Cass, 2019). The Council provided several briefings to Minister Harrison in June 2025 on the issues faced by young carers.

CALD and Indigenous Carers: Discrimination, Anomie, and the Erosion of Belonging

Carers from culturally and linguistically diverse (CALD) backgrounds and First Nations communities often face multiple and compounding forms of discrimination that deeply affect their wellbeing, access to support, and sense of identity. These carers are frequently excluded from mainstream services due to language barriers, cultural misunderstanding, and systemic racism. As a result, many experience a profound sense of anomie—a disconnection from community, society, and self. Their roles are often shaped by cultural expectations of responsibility and care, but within Australian systems, those roles are invisible, unrecognised, and unsupported.

Language barriers can make even the most basic interactions with healthcare providers, Centrelink, or disability services stressful and confusing. When carers struggle to communicate their needs or the needs of the person they care for. Service providers may misinterpret their concerns, make incorrect assumptions, or offer support that is inappropriate. In the case of First Nations carers, this lack of understanding is compounded by the long and painful legacy of colonisation, dispossession, and institutional racism. Many Aboriginal and Torres Strait Islander carers carry deep mistrust of mainstream institutions, shaped by generations of surveillance, removal, and exclusion. This makes engaging with services not only difficult but, in some cases, dangerous to their cultural safety and emotional wellbeing.

Cultural roles and expectations around family and caregiving also contribute to the invisibility of CALD and Indigenous carers. In many communities, women are expected to take on caring responsibilities as part of their identity and duty, often without complaint. While these roles are a source of pride and connection, the Australian support system offers little recognition for culturally shaped caregiving. As a result, carers find themselves stretched thin, navigating the demands of family, culture, and bureaucracy without any acknowledgment or support from the systems meant to help them. Their experiences remain invisible in policies and programs that are designed around a narrow, Western understanding of care.

The emotional toll of this exclusion is profound. Many carers report losing their sense of identity outside of the caring role. Cut off from paid work, social participation, or education, they experience isolation and feel they do not belong, either in their communities of origin or in the broader Australian context. The stigma of mental illness or disability within some cultures can further silence carers, who fear judgement or rejection from within their own families or communities if they speak out.

For carers on temporary or dependent visas, these challenges are even more severe. Many women caring for loved ones with disability or mental illness live with no access to healthcare, employment rights, or social security. Their visa status forces them into economic dependence, often making it impossible to balance unpaid care with paid work. The fear of visa cancellation or deportation prevents many from seeking help or reporting discrimination, even when they are mistreated. This creates a cycle of invisibility, isolation, and systemic neglect.

The intersection of race, gender, visa insecurity, and unpaid care creates a complex web of disadvantage that is rarely acknowledged in public discourse or legal frameworks. CALD and Indigenous carers especially women are among the most excluded and under-recognised members of the caring community. They are expected to carry heavy emotional and practical burdens, often without support, flexibility, or dignity. This failure to see and support them not only harms individual carers but weakens the entire system of community-based care on which so many Australians rely.

Only by acknowledging the intersecting forces of discrimination, and by developing culturally safe, accessible, and inclusive supports, can we begin to restore a sense of belonging and value for these carers and ensure that their lives are not defined by stigma, silence, or struggle.

Carers of People with Mental Health and Illness

Carers of people with psychosocial disability or mental illness, such as schizophrenia, bipolar disorder, or PTSD, face a unique and often overlooked form of discrimination. This discrimination is deeply rooted not only in stigma, but in the failure of social, workplace, and legal systems to accommodate the realities of their lives. These carers navigate compounding pressures that are emotional, bureaucratic, social, and financial, often without access to flexible or sustainable support (ABS, 2022). Despite their critical role in maintaining the wellbeing of those they care for, they are frequently excluded from policy frameworks, overlooked in mental health planning, and left unsupported by fragmented service systems.

The toll for carers is not only administrative but deeply personal, caring is important to them and part of who they are, who we are. Carers supporting someone with a mental illness experience some of the highest rates of psychological distress of any caregiving group. Research by Mental Health Carers NSW (2022) found that 70% of such carers experience significant psychological distress, compared to just 24% in the general population. Carers Australia (2022) reports that more than half of all carers have a chronic mental health condition themselves, most commonly anxiety or depression. The Australian Unity Wellbeing Index (Cummins et al., 2021) confirms that carers of people with mental illness consistently have the lowest wellbeing scores nationally. Shockingly, the 2021 Carer Wellbeing Survey found that one in three mental health carers had contemplated suicide.

This mental health decline is not accidental; it is the result of systemic neglect. Carers are often exposed to chronic stress, forced to manage unpredictable crises without adequate support, and face social isolation due to the stigma surrounding mental illness. Many live in a state of hypervigilance, with little to no respite, especially when caring for someone who has suicidal ideation or co-occurring trauma. Their roles are 24/7 yet rendered invisible by systems that neither recognise nor reimburse the scope of their work. Structural discrimination is intensified for women, single parents, and carers from Aboriginal, Torres Strait Islander, and CALD backgrounds, who face additional socioeconomic barriers and

> *Chris is a full-time carer for his wife, who lives with schizoaffective disorder—a condition that includes symptoms of both schizophrenia and mood disorder. Her episodes can be unpredictable and severe, often requiring hospitalisation or urgent psychiatric intervention. In addition to caring for her, Chris is raising their three children, two of whom have behavioural disorders that require ongoing assessments, therapy, and school meetings.*
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> *Chris gave up paid work several years ago to manage the needs of the household. He is not eligible for the NDIS, and the family receives only limited support from local services. Managing multiple care plans, juggling school disciplinary issues, and advocating across fragmented service systems has left him exhausted. Despite being a competent and loving parent and partner, Chris feels invisible, often treated as an appendage to his wife's diagnosis rather than a person with needs of his own. He has little time for self-care and no access to respite. The*

> *stigma surrounding mental illness has also distanced his extended family, who “don’t know how to help,” leaving him socially isolated.*

Chris’s story demonstrates how caring for someone with mental illness especially when raising children with complex needs, creates a perfect storm of emotional, social, and financial pressure. Without system-level recognition, Chris and others like him fall through the cracks. His situation is a powerful reminder that mental health care is not just about the individual, it must also include and support the carers who carry the weight of that care every day.

Chris provides up with a lived experience which highlights how intersecting factors, gender, caregiving responsibilities, disability, and lack of income. Chris faces multiple layers of discrimination which combine to produce systemic discrimination. These carers are not simply stressed; they are actively excluded from the supports and protections that others with similar levels of responsibility or vulnerability might receive. Without targeted reform and proper legal recognition of carers, particularly those supporting someone with psychosocial disability, this cycle of harm will continue.

Key Recommendations

Consolidated Submission Section: Discrimination Against Carers and Legislative Reform

Carers face significant discrimination on multiple layers in society. We have provided example of just a few of the carer groups we represent, some of these issues are also relevant across all carer groups. We have discussed issues for people caring for loved ones with disability or mental illness, particularly those from marginalised communities, face multiple and overlapping forms of discrimination that are inadequately addressed in the current Anti-Discrimination Act 1977 (NSW). These include emotional and economic hardship, workplace exclusion, systemic inflexibility, and social stigma, which are compounded for carers with intersecting identities such as gender, race, visa status, and age. The current legal framework fails to provide clear, enforceable protections, and does not reflect the structural and intersectional nature of discrimination experienced by many carers.

Carers supporting someone with a psychosocial disability or mental illness often face the most acute forms of invisible and chronic discrimination. The burdens of care are not only emotional and bureaucratic but are made worse by the absence of systemic support. These carers report higher levels of chronic stress, anxiety, and depression, with over 56% experiencing a mental health condition themselves (Carers Australia, 2022). Mental Health Carers NSW (2022) found that 70% of such carers experience significant psychological distress, while the Australian Unity Wellbeing Index shows they have the lowest wellbeing scores of any carer group (Cummins et al., 2021). The trauma exposure, lack of respite, and social isolation faced by these carers are structural, not incidental, and must be addressed through law reform.

We provided you with the example of Chris, who cares for his wife who lives with schizoaffective disorder and their three children, two of whom have behavioural disorders. Chris is constantly juggling crisis care, advocating for support at school, and navigating fragmented systems. His employment has suffered due to the unpredictability of his caring role, and he has no access to formal supports. The stigma surrounding mental illness isolates his family from extended networks, and his own mental health has deteriorated significantly. Chris's experience reflects the broader systemic failure to recognise and protect carers from indirect and structural discrimination.

Similarly, culturally and linguistically diverse (CALD) and Indigenous carers face multiple barriers that deepen their exclusion. These include language difficulties, systemic racism, cultural misrecognition, and institutional distrust. For example, service providers may assume a lack of compliance or capability when the real issue is inadequate interpretation or culturally unsafe practice. Indigenous carers carry the intergenerational impacts of colonisation and racism, which leads to a profound mistrust of institutions. These experiences contribute to a persistent sense of anomie, cultural dislocation, and a loss of belonging. For CALD women on temporary visas, the consequences are even more severe. They may be ineligible for basic supports, face restrictions on work rights, and fear deportation if they speak out about discrimination. Carers in these circumstances often become invisible in policy, unsupported by law, and unprotected by the existing anti-discrimination framework.

We also connected you with the lived experience of Emily, a young woman caring for her sister with a degenerative condition, highlights how workplace discrimination further entrenches inequality. Emily frequently needs to take time off at short notice due to medical emergencies. Despite her commitment and performance, her employer views her as unreliable and has passed her over for promotions. No formal mechanisms exist in her workplace to request flexible arrangements without penalty. She has become isolated and anxious, fearful of disclosing her role as a carer. Her experience illustrates the need for clearer rights and enforceable protections that acknowledge the realities of modern care relationships.

These case studies reflect broader structural patterns that require legislative recognition. Intersectional discrimination, where gender, race, visa status, and caring converge is not well addressed by current law. Young carers, Indigenous carers, carers of people with mental illness, and carers with insecure visa status remain structurally invisible. The NSW Anti-Discrimination Act must be modernised to include care responsibilities as a standalone ground of discrimination and to recognise indirect, structural, and intersectional discrimination.

Alignment with the Terms of Reference

We raise several key issues related to the TOR for the Inquiry and would be happy and privileged to provide evidence about why we believe these must be considered when amending the legislation:

- **ToR 1 & 4**: The Act should be modernised to reflect indirect, structural, and intersectional discrimination, particularly for carers with overlapping identities (e.g. young, CALD, disabled, gender-diverse).
- **ToR 2**: Introduce “carer responsibilities” as a standalone, enforceable protected attribute, with reference to the Carers Charter under the NSW Carers (Recognition) Act 2010.
- **ToR 3**: Expand protected areas to include education, health, housing, and public services to make discrimination against carers visible and actionable.
- **ToR 6 & 10**: Identify harassment and structural exclusion based on carer status in the workplace, in education, and in service access.
- **ToR 7**: Introduce positive obligations on employers, educators, and service providers to provide reasonable adjustments and design inclusive services.

- **ToR 9**: Reform complaints processes to be trauma-informed, culturally safe, and capable of handling systemic and intersectional claims.
- **ToR 10**: Empower the Anti-Discrimination Board to investigate patterns of discrimination against carers and support systemic change.
- **ToR 11 & 12**: Align NSW protections with Commonwealth and other jurisdictions, particularly the Victorian Equal Opportunity Act and the Fair Work Act.

Linking the Acts: Legislative Alignment

To bridge the gap between symbolic recognition and legal protection, the Anti-Discrimination Act should formally reference the NSW Carers (Recognition) Act 2010. This includes embedding the NSW Carers Charter as a guiding framework, aligning definitions of "carer responsibilities" across both Acts, enabling enforcement of Charter principles through anti-discrimination complaints, and requiring public sector agencies to demonstrate compliance with both Acts. This would move us towards a fairer, more inclusive legal framework that honours the unpaid labour of carers and recognises their right to dignity, support, and protection. The Council notes that the language of “carer responsibilities” is not commonly recognised in policy, research and the service environment, therefore we would recommend the language be reframe as ‘caring or care responsibilities’.

Conclusion

NSW could lead the country by ensuring carers are no longer invisible, undervalued, or excluded. This submission calls for a rights-based approach to caring; one that understands the complexity of modern caregiving, respects the diversity of carer experiences, and enshrines justice and equality in law.

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