

10 March 2023

Aviation White Paper Branch  
Domestic Aviation & Reform Division  
Department of Infrastructure, Transport, Regional Development, Communications and the Arts  
GPO Box 594  
CANBERRA ACT 2601

By email: [aviationwhitepaper@infrastructure.gov.au](mailto:aviationwhitepaper@infrastructure.gov.au)

Dear Aviation White Paper Branch,

### **Aviation White Paper: Submission on Terms of Reference**

The Public Interest Advocacy Centre (**PIAC**) welcomes the opportunity to make this short submission in response to the Terms of Reference released on 7 February 2023 for the upcoming Aviation White Paper.

PIAC 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 as a strong advocate promoting the rights and equal participation of people with disability.

In particular, PIAC has considerable experience in disability discrimination litigation and public policy development in the area of public transport. Equal access to air travel is a current priority for our Equality and Non-Discrimination practice, and we consider that many incidents where equal access to airlines is denied is to people with disability amount to unlawful disability discrimination. We have represented clients in disability discrimination matters against airlines and airports in the Australian Human Rights Commission (**AHRC**) and in the Federal Court of Australia. We also work on related law reform in consultation with disability advocates and Disability Representative Organisations (**DROs**).

### **People with disability face systemic issues in air travel**

We ask the Department to ensure the White Paper addresses the issues faced by people with disability travelling by air. In particular, we ask that consideration be given to reshaping the Terms of Reference to specifically address these issues.

Systemic discrimination in airport and airline policies and practices presents significant barriers for people with disability accessing air travel in Australia. Further, policies and practices relating to accessibility and equality are inconsistent, which means people with disability experience different treatment with different airlines and at different airports within Australia. These discriminatory practices are experienced across the whole journey, from booking a flight ticket, checking in, passing through security, boarding, accessing in-flight information and services, disembarking and moving through the terminal.



To illustrate, some of the systemic issues we are aware of through our casework and stakeholder engagement are:

- People who use manual or electric wheelchairs may be required to check in their customised wheelchair at the check-in counter and transfer to an airline chair which must be pushed by someone else through the terminal to the boarding gate. This means people who use wheelchairs are denied independence and freedom of movement to access facilities within the airport including accessible toilets, shops and food outlets. Additionally, people are at risk of injury due to being pushed and required to sit in an unsafe and unsuitable airline chair for extended lengths of time. A similar practice may apply on arrival when disembarking a flight.
- Wheelchairs are lost or broken by airlines leaving people stranded without access to an appropriate wheelchair for mobility and incurring expense to repair the damage.
- Assistance animals may not be approved for travel in the aircraft cabin with their handler.
- People with disability may be subject to alternative airport screening measures involving the use of a handheld metal detector, an explosive trace detection test or frisk search, despite preferring to use body scanners or walk-through metal detectors.

These issues were reflected in the reports of abuse, neglect and discrimination in air travel raised by people with disability to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (**Royal Commission**). The stories heard by the Royal Commission underscore the scale of the problem and clearly demonstrate not enough has been done to require airlines and airports to improve their practices. These experiences prompted the Hon Ronald Sackville AO KC to write to CEOs of Australian airlines and airports urging the industry to consider solutions.<sup>1</sup>

Existing regulations provide only limited protection for the rights of people with disability when travelling by air. In particular, despite three reviews of the *Disability Standards for Accessible Public Transport 2002* (Cth) (**Transport Standards**) over 20 years, a fourth review underway, and an ongoing reform process, there are no specific reforms targeted at improving the accessibility of air travel. Further, a lack of oversight and mechanisms to enforce the Transport Standards have resulted in airlines and airports adopting varying policies and practices that do not meet the needs of people with disability.

We therefore urge the Department to address specific accessibility topics in its White Paper, including:

- identifying existing problems experienced by people with disability in travelling by air and developing effective and targeted outcomes;
- whether the current legal and regulatory framework adequately protects and promotes the rights of people with disability to equally accessing air travel;
- development of specific enforceable standards or legislation for airlines and airports to ensure equal access to air travel for people with disability;
- harmonising aviation security screening rules across Australian airports to ensure consistency in screening people with disability; and
- emphasising the essential nature of disability awareness training and disability inclusion training for staff working at airports and airlines in Australia.

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<sup>1</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, 'Chair writes to CEOs of airlines and airports', (Media Release, 3 February 2023) <<https://disability.royalcommission.gov.au/news-and-media/media-releases/chair-writes-ceos-airlines-and-airports>>.

Further, the White Paper and the policies it sets should:

- ensure there is adequate time for broad and comprehensive consultation with people with disability, relevant peak DROs and the AHRC;
- ensure that aviation policies are consistent with the Convention on the Rights of Persons with Disabilities;<sup>2</sup>
- comply with the eight Guiding Principles set out in *Australia's Disability Strategy 2021-2031*, which apply to developing policies and services by Governments, business and non-government sectors and the broader community<sup>3</sup>; and
- be informed by the findings and any recommendations of the Royal Commission regarding the barriers encountered by people with disability in accessing air travel.

### **The Terms of Reference should refer to the needs of people with disability**

These issues create harmful inequities for people with disability and their access to air travel. It is vital that government seizes the opportunity presented by the White Paper to identify and tackle these inequities. As such, the Terms of Reference should specifically refer to the needs of people with disability. This could be done by including an additional area of:

...creating an aviation sector and experience that includes and supports people with disability to fly with safety, dignity and freedom.

Alternatively, clauses could be added to existing focus areas that draw attention to the relevance of those areas to people with disabilities.

We are pleased that the current Terms of Reference otherwise provide scope for the White Paper to address issues relevant to people with disability travelling by air. The area of 'appropriate consumer protections and access to services' should direct attention to the experiences of people with disability at all stages of the flight booking, boarding and travel process to ensure equal access to air travel. Other focus areas identified for the White Paper should also raise opportunities to improve the air travel experience for people with disabilities, including how airlines can use new technology to improve the experience for wheelchair users, or where training priorities can ensure staff have the knowledge and skills to support people with disabilities.

Please do not hesitate to contact me if you would like to discuss any of the matters raised in this letter.

Yours sincerely

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<sup>2</sup> *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 2515 UNTS 3 (entered into force 3 May 2008).

<sup>3</sup> Commonwealth, Department of Social Services, *Australia's Disability Strategy 2021-2031* (2021) 38, 57-58 <<https://www.disabilitygateway.gov.au/sites/default/files/documents/2021-11/1786-australias-disability.pdf>>.

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Public Interest Advocacy Centre

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Dear Aviation White Paper Branch,

### **Aviation White Paper Terms of Reference**

The National Inclusive Transport Advocacy Network (**NITAN**), born from a discussion on transport issues jointly led by the Australian Federation of Disabled Organisations (**AFDO**) and the Australian Human Rights Commission, was subsequently established by AFDO and has worked during its formation with a core working group of members from the following organisations:

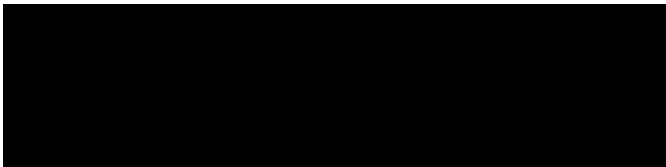
- All Aboard Network
- Australian Federation of Disability Organisations (AFDO)
- Council for Intellectual Disability (CID)
- Disability Justice Australia (DJA)
- Disability Resources Centre (DRC)
- First Peoples Disability Network (FPDN)
- Inclusion Moves
- National Ethnic Disability Alliance (NEDA)
- People with Disability Australia (PWDA)
- Physical Disability Council of NSW
- Victorian Legal Aid

Along with other state-based advocacy organisations and individuals with expertise in legal, transport and disability rights.

We aim to be the voice of people with disability on transport matters, however, we recognise the disability community is made up of a diverse range of people with a differing needs and priorities. We understand that to be effective, we need to engage with experts in their field. We are open to ideas on how this can occur and look forward to shaping our voice with the disabled communities' assistance.

NITAN notes the Terms of Reference for the upcoming Aviation White Paper. We have also had the opportunity to review the submission prepared in response to these Terms of Reference by the Public Interest Advocacy Centre (**PIAC**). We endorse PIAC's submission, and each of the recommendations it makes.

We look forward to engaging with the Department at further stages of consultation on the development of the White Paper.



Yours sincerely,

**Richard Witbreuk**  
Chair  
National Inclusive Transport Advocacy Network