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**NSW Government Submission to the
Inquiry into the Migration Treatment of Disability
by the Joint Standing Committee on Migration**

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TABLE OF CONTENTS

1	Statement of Principle	3
2	Background	3
3	Migration Program- NSW Overview and Impact.....	4
4	Report on the options to properly assess the economic and social contribution of people with a disability and their families seeking to migrate to Australia.....	5
5	Report on the impact on funding for, and availability of, community services for people with a disability moving to Australia either temporarily or permanently.....	8
6	Report on whether the balance between the economic and social benefits of the entry and stay of an individual with a disability, and the costs and use of services by that individual, should be a factor in a visa decision.....	11
7	Report on how the balance between costs and benefits might be determined and the appropriate criteria for making a decision based on that assessment.....	11
8	Report on a comparative analysis of similar migrant receiving countries.....	12
9	References.....	13
10	Appendix A: NSW and Australian Government Policies to support employment participation by people with a disability	15
11	Appendix B: Services and programs for students with disabilities provided by the NSW Department of Education and Training.....	16

1. Statement of Principle

The NSW Government recognises the social and economic contribution of people with a disability, as well as that of their families, to the community.

2. Background

Australia signed the *United Nations Convention on the Rights of Persons with Disabilities* (the Convention) on 30 March 2007. The Australian Government ratified the Convention on 17 July 2008, with it entering into force in Australia on 16 August 2008.

The Convention is aligned with the social model of disability which “recognises the inherent equality of a person with a disability and their human worth beyond an economic assessment of the cost of that disability.”¹

On 16 October 2008, the Joint Standing Committee on Treaties recommended a review of the *Migration Act 1958* (Cth) and relevant administrative procedures to ensure that there is no direct or indirect discrimination against persons with disabilities in contravention of the Convention.

The Minister for Immigration and Citizenship, Senator Chris Evans, and the Parliamentary Secretary for Disabilities and Children’s Services, the Hon Bill Shorten, announced an inquiry into the health requirement of the *Migration Act* on 15 May 2009. The Joint Standing Committee on Migration subsequently published the Terms of Reference (ToR) for the inquiry with a closing date for submissions of 28 October 2009.

The health requirement of the *Migration Act* and the *Migration Regulations 1994* (Cth) is a set of criteria that visa applicants must meet, which has the broad aim of protecting the Australian community from public health risks, containing public expenditure on healthcare and community services, and safeguarding citizens’ and permanent residents’ access to health services in short supply. The health requirement applies to all visa applicants, however in some circumstances a waiver can be granted. These circumstances will be discussed later under ToR 1.

The *Migration Regulations* have recently been amended to permit a waiver of the health requirement for four skilled visa classes (846, 855, 856 and 857) subject to the agreement of participating States and Territories. On 18 August 2009, NSW agreed to participate subject to the finalisation of a Memorandum of Understanding (MOU) and Guidelines (see ToR 1).

¹ Diane Driedger, *The Last Civil Rights Movement: Disabled Peoples International* (Hurst & Company, 1989) 28. as cited in Australian Lawyers for Human Rights *A Human’s Worth: Putting a Price on Disability in Migration Matters* 2009

3. Migration: NSW Overview and Impact

Permanent Migration

NSW is the primary destination for all classes of migrants to Australia. As a consequence, the impacts of migration on infrastructure and State Government services disproportionately fall on NSW.

The 2007-08 Migration Program brought 173,290 permanent migrants to Australia and 31.7 per cent (65,200 people) settled in NSW; the largest proportion for any State and Territory. Of the group that settled in NSW, 50.6 per cent of entrants were from the skilled migration stream. The family stream accounted for 32 per cent of entrants, with nearly two thirds of those under spouse visa categories. The Humanitarian Program accounted for 6.2 per cent of entrants; within this 35.1 per cent (1,412 people) were refugees (offshore), 26.5 per cent (1,061 people) were granted onshore protection, and 38.5 per cent (1,546 people) were part of the Special Humanitarian Program.²

In addition, NSW receives a much higher percentage (approximately 41 per cent)³ of the nation's 'settlement services target group'; a group that the Department of Immigration and Citizenship (DIAC) has identified as being the most in need of assistance to settle successfully in Australia.⁴ This target group consists of:

- humanitarian entrants;
- family stream migrants with low levels of English proficiency; and
- dependants of skilled migrants with low English proficiency who have settled in regional areas.

Temporary Migration

In addition to the number settling in NSW through the permanent migration program, large numbers of people from overseas settle in NSW on a temporary basis. These temporary entrants include students, visitors, long stay business visa holders and working holiday makers. In 2007-08, the temporary migration program brought 4,197,360 people to Australia; 3,171,990 of whom were tourists.⁵

Impact

DIAC's *Migrants Fiscal Impact Model: 2008 Update* indicates that new migrants provide a substantial contribution to the Australian economy. The report estimates that migrants who entered through the 2007-08 Migration Program will benefit the economy by \$610 million in the first year, growing

² Department of Immigration and Citizenship, *Population Flows, Immigration Aspects 2007-2008 Edition*, p112, Commonwealth of Australia, May 2009

³ Department of Immigration and Citizenship, *Settlement trends and needs of new arrivals 2007*, p14, Commonwealth of Australia, 2007

⁴ Department of Immigration and Citizenship, *Settlement trends and needs of new arrivals 2007*, p6, Commonwealth of Australia, 2007

⁵ Department of Immigration and Citizenship, *Population Flows, Immigration Aspects 2007-2008 Edition*, Commonwealth of Australia, May, 2009

steadily to meet a total of \$1.5 billion after 20 years.⁶ The impact of migration on the use of services and infrastructure is also both immediate and ongoing.

The Commonwealth Auditor-General pointed out in his 2006-07 Audit Report, *Administration of the Health Requirement of the Migration Act 1958*, that State and Territory Governments already cover the costs of health undertakings arising from the operation of the health requirement.⁷

While NSW strongly supports migration, the NSW Government would be concerned if additional demand was placed on NSW services and infrastructure as a consequence of changing the health requirement of the *Migration Act* or *Migration Regulations*, without appropriate compensation from the Commonwealth.

4. ToR 1. Report on the options to properly assess the economic and social contribution of people with a disability and their families seeking to migrate to Australia.

The NSW Government has approached consideration of this ToR with an assessment of the current operation of the *Migration Act* and *Migration Regulations* and the new arrangements being introduced to extend the health waiver to certain categories of skilled migrants.

Current Operation of the Health Requirement

Schedule 4 of the *Migration Regulations* outlines the public interest criteria relating to health. The current application of the health requirement gives undue emphasis to the financial costs involved in the migration of people with disabilities to Australia and conflates disability with ill health. Key features of the requirement are as follows:

- A visa can be refused where a person's medical condition (which could include a disability) would be likely to:
 - o result in 'a significant cost to the Australian community in the areas of health care or community services'; or
 - o 'prejudice the access of an Australian citizen or permanent resident to health care or community services'.⁸
- A 'significant cost' is defined as \$21,000 for the term of the visa applied for.

⁶ Department of Immigration and Citizenship, *Population Flows, Immigration Aspects 2007-2008 Edition*, Commonwealth of Australia, May 2009

⁷ A 'health undertaking' is an undertaking given by the visa applicant to present themselves to the health authority in their intended state of residence for follow up medical assessment. A health undertaking is used if the applicant has a medical condition that is not a public health risk but requires further examination, such as inactive tuberculosis. Australian National Audit Office: 2007

⁸ *Migration Regulations 1994* (Cth) Public Interest Criteria 4005(c)

- This regulation applies regardless of whether the health care or community services will actually be used in connection with the applicant.
- The assessment does not take into account the ability of individuals or their family to pay for costs that may be attributable to their illness or disability.
- A 'one fail, all fail' policy, which means that if any member of the family unit fails to meet any of the health requirements, no one in the family unit, including the primary applicant, can be granted the visa.

Waiver of the Health Requirement for Certain Visa Classes

The health requirement applies to all visa applicants, however in some circumstances a health waiver can be granted. Currently, a health waiver can be considered when an application is made for an Educational Visa (418), Business (Long Stay) Visa (457) or a range of specific visa classes involving humanitarian or close family considerations.

In the case of an Educational or Business (Long Stay) Visa, a waiver will be considered when the intended Australian employer provides DIAC with a written undertaking to meet all the health costs for the disease/condition which resulted in the visa applicant failing to meet the health requirement.⁹

In the case of specific visa classes with humanitarian or close family considerations, the Minister for Immigration and Citizenship may waive the health requirement if he is satisfied that it would be unlikely to result in undue cost to the Australian community or undue prejudice to a citizen or permanent resident's access to health care or community services.¹⁰

Regardless of which visa class is applied for, a health waiver cannot be granted if the applicant fails to satisfy the legislative provisions relating to tuberculosis or being a threat to public health.

The Commonwealth recently amended the *Migration Regulations*, allowing the Minister to waive the health requirement in the grant of certain skilled visa classes (846, 855, 856 and 857), subject to the agreement of participating States and Territories in a Memorandum of Understanding (MOU).¹¹ NSW agreed to participate in the scheme on 18 August 2009, subject to the finalisation of the MOU and Guidelines.

Under the MOU and Guidelines, the health waiver can be applied to either the primary or secondary visa applicants. This is contingent on there being a 'net benefit' to the Australian community. 'Net benefit' can be understood as the

⁹ *Migration Regulations 1994* (Cth) Public Interest Criteria 4006A(2)

¹⁰ *Migration Regulations 1994* (Cth) Public Interest Criteria 4007(2)

¹¹ *Migration Regulations 1994* (Cth), reg 856.223(2)(a) allows the Minister to consider Public Interest Criterion 4007 (as opposed to Public Interest Criterion 4005 which does not allow any discretion to waive the health requirement).

person's contribution to the Australian community offset by their cost to the taxpayers.

When finalised, the MOU and Guidelines may assist in providing a model to assess the economic and social contribution of people with a disability and their families seeking to migrate to Australia.

Assessment of Economic and Social Contribution

There is currently no scope within Schedule 4 for an assessment to include consideration of the economic and social contribution of people with a disability and their families. However, the DIAC Procedures Advice Manual does allow for factors including the applicant's personal circumstances, their ability to mitigate potential costs and care requirements, and any compassionate and compelling circumstances to be taken into consideration in certain circumstances.

There are many difficulties in estimating the social contribution of people with disabilities, and the view that "some values cannot be expressed in economic terms, such as the quality of a person's life, relationships and their contribution to Australian society" is noted.¹²

Aside from the issue of social contribution, the economic contribution of a person with a disability and their family could be better reflected if:

- the ability of the individual, family or employer to pay for medical expenses or services and the contribution of informal supports were considered in the Medical Officer of the Commonwealth (MOC) assessment;
- the process used to calculate costs by MOCs more accurately reflected the circumstances of an individual's case, rather than defining the form or level of condition of an applicant and then applying the statutory criteria to a hypothetical person who has the form or level of condition. NSW considers that this process results in inaccurate or potentially inflated costs being attributed to a person;¹³ and
- the potential economic and social contribution of all family members was taken into account by the removal of the 'one fails, all fail' policy.

When considering the potential economic and social contribution of entrants to Australia, regard could be had to the effects of current State and Commonwealth policies and strategies which aim to remove barriers to employment and promote community participation by people with a disability. See *Appendix A* for further information.

¹² Australian Lawyers for Human Rights *A Human's Worth: Putting a Price on Disability in Migration Matters* 2009 p18

¹³ *Robinson v Minister for Immigration* 148 FCR 182 (Siopsis J) [42] as cited in Australian Lawyers for Human Rights *A Human's Worth: Putting a Price on Disability in Migration Matters* 2009

Administration

If a decision were taken to extend the health waiver to other visa classes, NSW considers States and Territories must be party to the development of the assessment arrangements. This should be the case as States and Territories would bear a significant proportion of any additional health and education costs arising from such a decision. In addition, there would be a need for national agreement to any such change, as once a permanent visa is granted an individual can move anywhere in Australia.

However, as the Commonwealth gives permission for people to enter Australia, it is appropriate that the Commonwealth be responsible for costs associated with the assessment and administration of any changed requirements.

5. ToR 2. Report on the impact on funding for, and availability of, community services for people with a disability moving to Australia either temporarily or permanently.

Broad Financial Implications of Waiver

DIAC has advised that 1,532 applicants were refused a visa on health grounds for the 2007-08 financial year. Of these, 844 failed to undergo the required health assessment and hence were refused a visa, two failed to meet the health requirement on public health grounds and 686 failed to meet the health requirement or had a family member who failed to meet the health requirement on health costs/prejudice of access grounds.

Of these 686 applicants, only 244 actually had a disease or condition. The other applicants were not granted a visa due to the 'one fails, all fail' rule for permanent visas. Of the 244 applicants with a disease or condition, 26 per cent (63 people) had a HIV infection, 25 per cent (61 people) had some form of intellectual impairment (including autism or Down Syndrome), with smaller numbers of refusals relating to other health issues including heart disease, cancer, vision or hearing impairment, mobility and mental disorder.

DIAC estimated that more than \$71 million in health and community service costs would have been incurred if the 244 individuals referred to above had been given a visa.¹⁴

The Australian National Audit Office (ANAO) however found that due to incomplete records, DIAC's data on health waivers was unreliable. The ANAO estimated that the annual cost of exercising the health waiver is \$92 million.¹⁵

¹⁴ DIAC has indicated that the \$71 million is based on an assessment of costs over a 5 year period plus any costs that are certain to occur for the remaining life expectancy of the individual.

¹⁵ Australian National Audit Office, *Audit Report No.37 2006-07: Administration of the Health Requirement of the Migration Act 1958*, p107

Specific Impact on Services and Education

If the Inquiry recommends changes to the health requirement, this may result in an increase in migrants with disabilities entering Australia and settling in NSW.

Given that 31.7 per cent of migrants settle in NSW,¹⁶ it is reasonable to assume that there would be increased resource implications for NSW Ageing Disability and Home Care (ADHC) and its funded services, the NSW Department of Health and the NSW Department of Education and Training (DET).

The social costs of migration are difficult to define, however, research indicates social costs associated with migration are short term and generally arise from the integration phase of the settlement process¹⁷. Examples of social costs relate to issues such as lack of English proficiency and consequent access to jobs, cultural integration and infrastructure inadequacies.

Unlike the social costs outlined above, the costs associated with disability service provision are likely to be ongoing. The impact on funding for disabled services is difficult to quantify, however, it should be noted that there may be a substantial effect on this area if the health requirement is altered.

Any changes to the health requirement are likely to result in the need for increased service delivery and expenditure on education and training services for students with a disability. The NSW DET has provided a detailed advice on funding implications below.

School Education

There are a wide range of costs associated with the provision of education to students with a disability. Some students whose disabilities may not appear severe have additional learning needs that are high-cost while some students with apparently severe disabilities do not require high-cost support. The costs associated with the provision of education to students with a disability are subject to:

- individual need and the changing nature of learning needs as the student progresses through school;
- curriculum accommodation and/or adjustments required to meet individual need;
- school and classroom environment, including any special transport that may be required; and

¹⁶Department of Immigration and Citizenship Settlement Database, data extracted on 10 Sep 2009

¹⁷ Carrington, MacIntosh and Walmsley, *The Social Costs and Benefits of Migration into Australia*, UNE, 2007.

- changing developments in technology.

For indicative purposes, DET estimates that the average cost of providing education services to a student with a disability in a NSW Government school can vary between \$17,856 and \$43,797 per annum based on 2008-2009 salary rates.

Adult Migrant English Program

NSW DET also leads a consortium providing English language tuition to migrants and refugees from non-English speaking backgrounds under the Adult Migrant English Program (AMEP). DET notes that at present few students with disabilities enrol in the AMEP due to restrictions on migration entry. However, should the health requirement of the *Migration Act* be changed to allow adults with disabilities to enter Australia as migrants, the following issues would need to be considered:

- There would need to be extra funds allocated for special education provision within the AMEP. Special education units within schools and NSW TAFE institutes (which are partners in the DET's AMEP Consortia) are already experiencing high demand.
- The hourly entitlement for students with disabilities would need to be increased to an estimated 910 hours to maximise their opportunities to learn English.

Vocational Education and Training

In relation to vocational education and training, a recent study by the National Centre for Vocational Education and Research noted that funding models and allocations for students with disabilities are difficult to accurately estimate.¹⁸

The difficulty in accurately estimating costs arises from a range of factors involved in the provision of appropriate education, training and support services, including:

- the type and severity of a person's disability;
- the number of students within each disability category;
- where training is to be provided;
- the learning and support needs of people with disabilities; and
- the interaction between study and other aspects of a student's life.

In the case of migrants with disabilities, language and literacy needs may also need to be accommodated.

Disability Support Pension

¹⁸ Griffin, T and Nechvoglod, L, *Vocational education and training and people with a disability: A review of the research*, National Centre for Vocational Education and Research, 2008, p 20

The *Social Security Act 1991* (Cth) stipulates that a person must have ten years 'qualifying Australian residence'¹⁹ before being eligible for the Disability Support Pension (DSP)²⁰ and most other social security pensions/benefits. Persons who have migrated to Australia on humanitarian grounds are exempt from this rule.

Eligibility for the DSP is a prerequisite to receive various disability services and equipment. As a result, ineligible migrants with a disability may be unable to access a range of services that are available to Australian residents with a disability. As the DSP pays more than other forms of income support, ineligible migrants with a disability may have a lower income than those on the DSP, placing them in a more financially vulnerable position.

The Inquiry may wish to consider the benefits and costs of removing the 'ten year' rule.

6. ToR 3. Report on whether the balance between the economic and social benefits of the entry and stay of an individual with a disability, and the costs and use of services by that individual, should be a factor in a visa decision.

The NSW Government supports the view that the economic and social contributions of both individuals and their families should be considered in a visa decision. As demonstrated by the Moeller case, failure to consider this can lead to unjust decisions which discount the valuable social and economic contributions of family members.

It should be acknowledged that there is significant competition from migrant receiving countries for highly skilled migrants. Removing barriers and disincentives to the migration of such people may be in Australia's best interest.

7. ToR 4. Report on how the balance between costs and benefits might be determined and the appropriate criteria for making a decision based on that assessment.

Measurement of both costs and benefits may be imprecise and any attempt to establish a simple financial relationship is fraught with difficulty.

Factors that could be considered in relation to economic and social benefits could include:

¹⁹ *Social Security Act 1991* (Cth) s 7: 'qualifying Australian residence' is met when a person resides in Australia for a continuous period of not less than 10 years, or during more than one period with at least one period in excess of five years and the aggregate of those periods exceeding 10 years.

²⁰ *Social Security Act 1991* (Cth) s 94(e)

- an assessment of likely lifetime earnings based on the qualifications/profession of the individual and/or their family;
- the cost of producing an equivalent professional in Australia;
- the importance of the skills that the individual and/or their family would bring to the Australian economy, particularly in key occupations where there are skill shortages;
- an intention to migrate to an area where there are skills shortages for their particular occupation;
- any voluntary contribution of the individual and/or their family to the community, including membership of voluntary organisations; and
- any likely significant professional contribution in their field, including fields such as the arts, sport or science;

In addition to costs and benefits, any assessment of this nature should also take into account the individual circumstances of the migrant and their family, including compassionate and compelling circumstances.

For example, the draft Guidelines for the on-shore skilled visas waiver allow for a consideration of compassionate and compelling circumstances, which include:

- established links to Australia (e.g. family, extended periods of residence or community, professional or economic ties);
- other links to or support in Australia;
- whether there are any Australian children who would be adversely impacted;
- factors preventing the applicant from returning to their own country or a third country.

8. ToR 5: Report on a comparative analysis of similar migrant receiving countries

The NSW Government has not undertaken a comparative analysis of similar receiving countries. NSW, however, notes the research of Dr Ben Saul, Director of the Sydney Centre for International Law, who has examined the differences between Canadian and Australian law in this area.

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Productivity Commission (2004), Review of the Disability Discrimination Act 1992, Productivity Commission Inquiry Report Vol. 1, No 30
<http://www.pc.gov.au/projects/inquiry/dda/docs/finalreport>

10. Appendix A: NSW and Australian Government Policies to support employment participation by people with a disability

In the NSW Government *State Plan: a new direction for NSW*, Priority F2 is “increased employment and community participation for people with disabilities”. The targets include: “Close the gap in the unemployment rate between people with a disability and the overall community by 50 per cent by 2016” and “Increase the out of home participation rate of people with a severe or profound disability to at least 85 per cent”. The *State Plan* also states that through the Council of Australian Governments (COAG) National Reform human capital agenda, “Pathways to employment will be improved by working with the Commonwealth to establish better links between the supply of training and employment places.”

The NSW Government’s 10-year plan for improved disability services *Stronger Together: A new direction for disability services in NSW* aims to increase opportunities for people with a disability to participate in the community, including working with the Commonwealth Government to improve the interface between disability and employment programs.

The majority of NSW Government agencies have a legislative responsibility under the NSW *Disability Services Act 1993* (DSA) to develop a Disability Action Plan. The vision for disability action planning for the NSW Government is that people with a disability in NSW are able to access government services, facilities and jobs on an equitable basis through the delivery of better services that promote fairness and opportunity for all citizens. NSW Ageing, Disability and Home Care is working with agencies to achieve these goals through a series of outcomes, one of which includes a focus on increasing employment participation of people with a disability in the NSW public sector.

Agencies are also required to develop Equal Employment Opportunity (EEO) Management Plans under the NSW *Anti-Discrimination Act 1977*. The EEO outcomes ensure a diverse and skilled workforce; improved employment access and participation by EEO groups, including people with a disability; and a workplace culture displaying fair workplace practices and behaviours. EEO strategies for people with a disability include recruitment programs and access to training and career development.

The *National Disability and Mental Health Employment Strategy* is scheduled for release by the end of 2009, which will further enforce these priorities.

11. Appendix B - Services and programs for students with disabilities provided by the NSW Department of Education and training

Government schools

Disability Criteria

The Department's criteria²¹ related to defining a disability for students attending government schools includes definitions which relate to students with an intellectual disability, physical disability, vision impairment, hearing impairment, speech and/or language disorder, mental health and behaviour conditions or autism spectrum disorders. Students with special learning needs may include those with learning difficulties, a behaviour disorder and/or a disability. All students with a disability have diverse abilities and learning needs.

Services Delivered

The Department provides a wide range of services and programs for supporting students with a disability, in its regular school classes, support classes in regular schools and special schools. The services and programs are underpinned by the policy *People with Disabilities - Statement of Commitment* which establishes commitments and expectations in relation to students with a disability attending government schools in NSW.²²

Support classes in regular and special schools (mild intellectual disability, moderate intellectual disability, moderate/severe intellectual disability, severe intellectual disability) provide intensive, individualised educational programs. The learning programs for students enrolled in these classes consider student needs in terms of curriculum areas, communication, social skills, personal care and safety and mobility. Support classes have the flexibility to support the integration of students into regular classes.

In addition, the following programs and services are available to support students with a disability from Kindergarten to Year 12:

- The Learning Assistance Program supports students experiencing difficulties in learning, regardless of the cause, in regular classes. The program provides specialist support teachers and annual funding to assist schools to meet the needs of students with learning difficulties. A confirmed disability diagnosis is not required to access support through this program.
- The Integration Funding Support Program supports students with confirmed disability in regular classes. The program provides funding to

²¹ For details of the NSW Department of Education and Training *Disability Criteria* for school children see Appendix 1.

²² Accessible from

https://www.det.nsw.edu.au/policies/general_man/general/spec_ed/PD20050243.shtml?level=Schools&categories=Schools%7CAccess+%26+equity%7CDisabilities

supplement existing school and regional resources. Funding may be used in a range of ways to meet the needs of students and the school including additional teacher or teacher aide time and training and development activities for school personnel.

Specialist facilities for students with confirmed disabilities include specialist classes in regular schools and special schools.

A range of specialist services support the work of teachers. These include:

- Itinerant support teachers who provide practical support to students with disabilities and their teachers. These specialist teachers have expertise in areas such as autism, vision, hearing and behaviour.
- Specialist transition teachers assist schools to support the needs of secondary students with disabilities through liaising and coordinating with a range of government and non-government agencies to facilitate transition for students with disabilities to post school destinations. This can include planning with
 - universities or TAFE for ongoing training and enrolment;
 - Centrelink and Disability Employment Networks for support, referral and registration for employment programs; and
 - NSW Department of Ageing, Disability and Home Care to undertake eligibility assessments for access to funded specialist disability post school programs.
- Disability programs consultants who provide advice on programming and assessment of learning programs and information on appropriate support to access the curriculum.
- School counsellors who work in consultation with teachers, the school, parents or carers and other agencies, where appropriate, to improve student learning and behaviour and provide counselling and psychological assessment.
- Student services officers who coordinate student welfare and behaviour provisions within a region.

Access to the Department's specialist disability services is facilitated through the student's school and requires initial assessment and confirmation of the student's disability by the school counselling service.

School placement of students with a confirmed disability is informed by parent choice as detailed in the Commonwealth *Disability Discrimination Act 1992* and the Standards. School and regional personnel work with families to identify the support required to address the specific learning needs of a student with a disability including the type of class placement they want for their child.

TAFE NSW

Criteria for determining access to disability services

If students have a disability, they are asked to indicate the type of disability on their TAFE NSW enrolment form and whether they require assistance from a Teacher/Consultant for Students with a Disability. This information is voluntary. Students requesting disability support are referred to the relevant Teacher Consultant for determination of support requirements.

Types of services

Students with a disability who are clients of Teacher/Consultants for Students with a Disability are entitled to one full fee exemption for one TAFE NSW course per year, and are eligible for the \$50 concession fee for subsequent enrolments in that year.

TAFE NSW employs 113 specialist Teacher/Consultants for Students with Disabilities to ensure people with a disability have equal access to education and training at TAFE campuses. Teacher/Consultants, who work in specialist disability areas, provide a range of services to help students including pre-course counselling and assistance with the enrolment process, as well as determining the most appropriate classroom support and assessment modifications.

Adjustments may include tutorial support, the use of adaptive technology, and/or a sign language interpreter, note-taker or disability assistant. The adjustments may also apply to students who have a temporary disability. Students who identify as having a disability and request disability support are assessed by specialist Teacher/Consultants for Students with a Disability in order to determine support requirements and assessment modifications.

TAFE NSW acknowledges the fact that the policy of providing a full fee exemption for one TAFE NSW course per year, and the eligibility of a \$50 concession fee for subsequent enrolments in that year by students with a disability results in a negative revenue impact on funding sources. Any increase in the numbers of students with disabilities presenting for enrolment at TAFE will have a further direct revenue impact, in addition to the cost of provision of support requirements and assessment modifications as may be warranted.

NSW Adult Migrant Education Service

The NSW Department of Education and Training leads a consortium providing English language tuition to migrants and refugees from non-English speaking backgrounds under the Adult Migrant English Program.

Refugees and migrants entering Australia through the family reunion migration stream have an entitlement to language provision through the program. The entitlement ranges between 510 and 910 hours depending on

migration category. This program is funded by the Department of Immigration and Citizenship.

Few students with disabilities enrol in the Adult Migrant English Program due to restrictions on migration entry. Some refugees have difficulties as they have suffered torture and/or trauma and are referred to specialist external agencies such as the NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors. A few students have hearing or sight problems and these are dealt with on a case-by-case basis.