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SUBMISSION REGARDING

THE EQUAL TREATMENT BENCH BOOK

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Thank you for the opportunity to provide input into the proposed Equal Treatment Bench Book. The Ethnic Disability Advocacy Centre (EDAC) is a community based advocacy organisation representing the rights and interests of people with disabilities from culturally and linguistically diverse backgrounds (CaLD) and their families. This group constitutes a significant proportion of the population and includes the full range of disabilities and a large diversity of cultures from all sectors of the community. CaLD people from disabilities are affected in all aspects of their lives, including employment, education, social, etcetera.

In regards to the justice system, particularly the court process, people from CaLD backgrounds face a number of issues. This includes language barriers, lack of knowledge and understanding, lack of access to legal support services, low incomes and coming from different experiences with legal systems in their country of origin. In addition, quite often expectations and assumptions can also be very different. There are a number of cultural differences that EDAC believes all members of the justice system should be aware of, including non verbal communication, appropriate terms of respect, the acknowledgement of different styles of discourse and being aware of who has the right to speak for someone in different cultures (for example, in some cultures an individual may require an uncle to speak on their behalf). It is also important to note that a polite response to a question such as "Do you understand?" does not necessarily indicate understanding. People from CaLD backgrounds require extra support due to the factors listed above and particularly as many lack the extended network of family support that they are used to, resulting in isolation and marginalization.

People with disabilities from CaLD backgrounds face additional disadvantages, particularly people with intellectual disabilities. This includes a lack of understanding of court proceedings. EDAC is believed that a legal advocate is required to go through the entire process from start to finish, ensuring that people with disabilities from CaLD backgrounds understand all of the processes. In addition, it is important that people are aware they have access to interpreters and that these interpreters can help the client understand what is happening. People with disabilities from CaLD backgrounds can be particularly disadvantaged in rural areas and it is thus important that there is a CaLD disability capacity within all of the legal/court support processes. A readily available list of legal practitioners and advocates and their languages would also be beneficial for a number of CaLD people.

A particular group to be aware of is refugees and other humanitarian entrants, who arrive in Australia due to a variety of different traumatic experiences, including conflict, famine and environmental disasters. Many of these people suffer from psychiatric disabilities, including Post Traumatic Stress Syndrome and it is important that this is taken into account during legal proceedings. These people may present with a number of issues including compromised trust in

government and the legal system and a reticence in engaging with the justice system due to negative past experiences. They may also lack understanding and knowledge of the Australian system and many may have come from background where different cultural norms exist when dealing with such situations, including bribery.

EDAC believes that early intervention and a focus on preventative measures is a priority in terms of the relationship between CaLD people with disabilities and the justice system. This includes ensuring people are informed of the legal system in Australia, how it works and sources of assistance. EDAC also recommends that culture and disability are taken into account when sentencing and that it is used as an opportunity to assist people to understand how to live within the legal framework of Australia. It is thus recommended that the courts respond in an educative way with early offenders, rather than punitively and that mediation options are fully explored due to the complexity of circumstances. It is believed that both disability and CaLD background factors need to be explored thoroughly prior to final sentencing and that rehabilitation options be included instead of or together with imprisonment.

In conclusion, EDAC would like to commend the Chief Justice of Western Australia for commissioning the Equal Treatment Bench Book and for taking into account the diverse needs of our diverse society. Furthermore, EDAC is happy to provide further information if required on any specific items mentioned above.