

Know your rights: Disability discrimination

Discrimination happens when . . .

Discrimination happens when a person with a disability is treated less fairly than a person without a disability. It also happens when someone is treated less fairly because they are a relative, friend, carer, co-worker or associate of a person with a disability.

The federal Disability Discrimination Act protects the rights of people with a disability. It aims to ensure that everyone has an equal opportunity to participate in and make a contribution to Australian life.

What does the Disability Discrimination Act do?

If you have a disability, it is against the law for people to discriminate against you in:

- > **employment**, such as getting a job or applying for a promotion
- > **education**, whether at school, university, TAFE or other colleges
- > **access to premises** such as shops, libraries or hospitals and other buildings used by the public,
- > **buying goods and using services**, such as being served in a restaurant or using taxis, banks and legal services
- > **accommodation**, such as renting a unit or house or buying and selling land
- > **activities of clubs or associations**, such as joining a sports club or RSL
- > **Commonwealth Government laws and programs**, such as voting and information in accessible formats
- > **playing sport**, including when enrolling, competing or access to mainstream competitions.

Who is covered?

The definition of 'disability' used in the Act is broad. It includes physical, intellectual, psychiatric, sensory, neurological and learning disabilities. It also includes physical disfigurement and the presence in the body of disease-causing organisms, such as the HIV virus.

The Act covers disabilities that people have now, had in the past, may have in the future or which they are believed to have.

Two friends complained that they had been forced to leave a bar because one of them was accompanied by a guide dog. The complaint was resolved and the bar owner provided an apology, financial compensation and a donation to a charity.

What is harassment?

Harassment occurs when someone makes you feel intimidated, insulted, humiliated or places you in a hostile environment. Harassment because of a disability, such as insults or humiliating jokes, is against the law if it happens in a place of employment or education, or from people providing goods and services.

What about the workplace?

A person with a disability has a right to the same employment opportunities as a person without a disability.

If a person with a disability can do the main activities, or 'inherent requirements', of a job then they should have an equal opportunity to do that job. In some cases, an employer may need to make some workplace changes so that the employee can best perform the job, such as providing an enlarged computer screen or installing ramps.

Employers are not required to make workplace changes if it would cause major difficulties or unreasonable costs. This is called 'unjustifiable hardship'. However, employers would need to show how making those changes would cause such hardship. Many adjustments involve little or no cost, and the Australian Government's *Workplace Modifications Scheme* can assist where there are costs in modifying the workplace or purchasing equipment for eligible employees with disability.

Employers should also have policies and programs to prevent discrimination and harassment in the workplace.

For information on the Disability Discrimination Act see:
www.humanrights.gov.au/about/legislation/

Making a complaint

If you feel that you have been discriminated against, you can contact the Commission and talk with a Complaints Information Officer.

The phone number is **1300 656 419**. Your call will be confidential.

If you decide to make a complaint, the Commission can help you, your friend, union or a person representing you to put together your complaint.

Complaints to the Commission must be in writing, by email or by using our online form at: **www.humanrights.gov.au/complaints_information**.

A complaint can be made in any language. You can also make a statement to the Commission in Braille, or verbally on video or audio tape. We can also help you write out your complaint if you need assistance.

There is no cost involved in lodging a complaint with the Commission.

If it appears that the issues you raise are covered by the Commission's laws, the Commission will contact the other person or organisation and ask for their side of the story. We will then work with both of you to try to find a solution that everyone can agree with.

This is called conciliation. A large number of complaints are resolved this way.

If conciliation does not work, you can choose to take your complaint further to the Federal Court of Australia.

It is against the law for anyone to victimise you for making a complaint.

Resolving complaints

Depending on what the complaint is about, conciliation can result in:

- > the provision of goods or services in a non-discriminatory way
- > changes in an organisation's policies or practices
- > reinstatement to a job or a promotion
- > an apology
- > payment of damages, and/or
- > some other outcome.

A woman was employed as a part-time receptionist in a busy medical practice. The employer became aware that the woman had previously claimed workers compensation for occupational overuse syndrome and she was dismissed from the medical centre a few weeks later. She claimed that she was told that the reason for her dismissal was her previous compensation claim.

The complaint was resolved with the employer providing the woman with financial compensation.

Preventing discrimination

You, and other people from the community can help ensure that people with disability have the same opportunities as other Australians to participate in the political, economic and social life of our communities by letting us know what is happening.

The Commission looks at the many different areas of life that can be improved for people with a disability, such as public transport, employment, e-commerce, going to the cinema and using the Web.

The Commission collects the views of everyone involved through public inquiries, round tables and other processes. We then make practical suggestions to government, business and other organisations about how things can be changed for the better.

A man with a disability complained that he was physically unable to get to the classrooms at his local TAFE college. In response the college agreed to schedule classes in ground floor rooms or buildings with accessible lifts whenever a need was identified.

Helping employers and other organisations

The commission provides advice and assistance to employers and other organisations about how they can prevent discrimination and meet their responsibilities under the Disability Discrimination Act.

We do this directly and through information and resources on our website. We also run community education programs and support organisations to develop Disability Action Plans.

Action plans are a way for an organisation to plan the elimination, as far as possible, of disability discrimination from the provision of its goods, services and facilities.

You can find out more about what we're doing by visiting:
www.humanrights.gov.au/disability_rights/

A small business operator, who is blind, complained that he could not use a government website because it didn't provide an accessible version of the content. The man needed to use the website regularly for his work. As a result, the government department agreed to upgrade its website in line with web content accessibility guidelines.

Contact details

Level 3,
175 Pitt Street
Sydney NSW 2000

GPO Box 5218
Sydney NSW 2001

Phone: (02) 9284 9600

Complaints Infoline: 1300 656 419 (local cost) or (02) 9284 9888

TTY: 1800 620 241

Fax: (02) 9284 9611

Complaints email: complaintsinfo@humanrights.gov.au

Web: www.humanrights.gov.au

Graeme Innes AM
Disability Discrimination Commissioner