



Fact sheet

Complaints under the Disability Discrimination Act

What is the Disability Discrimination Act?

The *Disability Discrimination Act 1992* (Cth) (the DDA) makes it against the law to treat you unfairly because of your disability.

You are also covered if you had a disability in the past, may develop a disability in the future or if people think you have a disability.

People who are relatives, friends and carers of people with a disability are also protected by the DDA.

When can this law be used?

You can use the DDA to get fair treatment in many areas of public life such as in:

- **Employment** – getting a job, terms and conditions of a job, training, promotion, being dismissed.
- **Education** – enrolling or studying in a course at a private or public school, college or university.
- **Accommodation** – renting or buying a house or unit.
- **Getting or using services** – such as banking and insurance services, services provided by government departments, transport or telecommunication services, professional services like those provided by lawyers, doctors or tradespeople, services provided by restaurants, shops or entertainment venues.
- **Accessing public places** – such as parks, government offices, restaurants, hotels or shopping centres.

You can also use the DDA if you are harassed because of your disability.

What is disability discrimination?

Disability discrimination happens when a person with a disability is treated less favourably than a person without the disability in the same or similar circumstances. For example, it

would be 'direct disability discrimination' if a nightclub or restaurant refused a person entry because they are blind and have a guide dog.

Discrimination also happens when there is a rule or policy that is the same for everyone but has an unfair effect on people with a particular disability. This is called 'indirect discrimination'. For example, it may be indirect discrimination if the only way to enter a public building is by a set of stairs because people with disabilities who use wheelchairs would be unable to enter the building.

Exceptions

Like other anti-discrimination laws, the DDA says that in some circumstances treating someone differently because of their disability won't be against the law. This is known as an exception or exemption.

For example, the DDA says it may not be against the law to refuse to employ a person with a disability, if because of their disability they cannot perform the inherent requirements of a job. However, the DDA also says that employers must consider how the person with a disability could be provided with reasonable adjustments to help them do the job. An adjustment is reasonable if it does not impose 'unjustifiable hardship' on the employer.

Unjustifiable hardship also applies to other situations. For example, it may not be against the law to only provide entrance to a building by a set of stairs if the owner of the building can show that it would cause unjustifiable hardship to modify the building to provide wheelchair access.

What can I do if I experience discrimination?

You may want to deal with the situation yourself by raising it directly with the person or people involved.

If this does not resolve the situation, or you do not feel comfortable doing this, you can make a complaint to the Australian Human Rights Commission. You can also have someone such as a solicitor, advocate or trade union make a complaint on your behalf.

It does not cost anything to make a complaint to the Commission.

Your complaint needs to be put in writing. The Commission has a complaint form that you can fill in and post or fax to us or you can lodge a complaint online at our website. If you are not able to put your complaint in writing, we can help you with this.

For your complaint to be valid it must be reasonably arguable that the events you want to complain about are unlawful discrimination and you must provide sufficient details about your allegations including what happened, when and where it happened and who was involved.

A complaint can be made in any language. If you need a translator or interpreter, the Commission can arrange this for you.

What will happen with my complaint?

When the Commission receives a complaint about something that is covered by the DDA, the President of the Commission can investigate the complaint and try to resolve it by conciliation. The Commission is not a court and cannot determine that discrimination has

happened. The Commission's role is to get both sides of the story and help those involved resolve the complaint.

Commission staff may contact you to get further information about your complaint.

Generally, the Commission will tell the person or organisation the complaint is against (the respondent) about your complaint and give them a copy of the complaint. The Commission may ask the respondent for specific information or a detailed response to your complaint.

Where appropriate, the Commission will invite you to participate in conciliation. Conciliation is an informal process that allows you and the respondent to talk about the issues and try to find a way to resolve the complaint.

If your complaint is not resolved or it is discontinued for another reason, you can take your complaint to the Federal Court of Australia or the Federal Circuit Court. In certain circumstances, you can only take a matter to court if the court has granted you leave to do so.

Where can I get more information?

The Australian Human Rights Commission's contact details are:

Telephone

National Information Service: 1300 656 419 (local call)

TTY: 1800 620 241 (toll free)

Fax: (02) 9284 9611

Post

Australian Human Rights Commission

GPO Box 5218

Sydney NSW 2001

Online

Email: infoservice@humanrights.gov.au

Website: www.humanrights.gov.au

You can make a complaint online by going to www.humanrights.gov.au/complaints_information/online_form/index.html.

If you are deaf or have a hearing impairment the Commission can arrange for an Auslan interpreter if this is needed. You can also communicate with us by TTY by calling 1800 620 241.

If you are blind or have a vision impairment, the Commission can provide information in alternative formats on request.

If you are thinking about making a complaint, you might also want to consider obtaining legal advice or contacting your trade union. There are community legal services that can provide free advice about discrimination and harassment. Contact details for your closest community legal centre can be found at www.naalc.org.au/directory.

Disability discrimination legal services

There are also legal services which provide free specialist advice about disability discrimination. Contact details for your nearest Disability Discrimination Legal Centre can also be found at www.naalc.org.au/directory.

Disclaimer: The information on this fact sheet is only intended as a guide. It is not a substitute for legal advice.