Anti-discrimination law in Australia

Australia has national, state and territory laws to make sure your child with a disability is not discriminated against, either now or when she is older. If you believe you or your child has experienced discrimination, you can take some fairly simple steps to have your complaint heard.
What is discrimination?

Discrimination is when you are treated unfairly because you have a disability (or because of something else about you – for example, your sex, religion or race).

There are two types of discrimination:

- **Direct discrimination** is when someone treats a person with disability less favourably because of their disability. An example might be someone telling you that your child cannot take part in a play group because her appearance would upset the other parents and children.

- **Indirect discrimination** occurs when a person with a disability is prevented from doing something a person without that disability can do. In this case, no-one sets out to be deliberately unfair, but the end result is unfair. An example might be your child not being able to use the local swimming pool because it has no ramp for wheelchairs.

Lawful and unlawful discrimination

People with disabilities may not be discriminated against in:

- education
- access to goods, services and facilities
- access to public places
- accommodation
- clubs and associations
- sport
- employment and work.

Sometimes discrimination may be lawful, in circumstances such as:

- court orders
- insurance and superannuation
- visa applications and other migration matters
- public health
- charities
- pensions.
What is disability?

The Commonwealth Disability Discrimination Act 1992 defines disability very broadly. It includes a very long list of possible conditions, some existing in the past and the future, and some that may not be actual but perceived by other people. Under the Act, disability includes:

- intellectual disabilities
- physical disabilities
- mental illness
- disease states
- acquired brain injury
- developmental disabilities
- learning disabilities.

Commonwealth law: Disability Discrimination Act 1992

This is an Australia-wide Act that says that no-one can be treated unfairly because they have a past, existing or future disability. It defines disability, as well as lawful and unlawful discrimination.

The Commonwealth Human Rights and Equal Opportunity Commission (HREOC) administers the Act and decides what to do if there is a complaint about disability discrimination at the Commonwealth level.

Further information about disability discrimination at the Commonwealth level

- A brief guide to the Disability Discrimination Act
- Disability Rights
- HREOC’s role in disability issues

State and territory laws

The Australian states and territories have anti-discrimination laws and bodies that deal with accusations of discrimination.

<table>
<thead>
<tr>
<th>State/Territory</th>
<th>Law</th>
<th>Contact</th>
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| ACT             | ACT Discrimination Act 1991 | ACT Human Rights Commission  
T: (02) 6207 0576  
F: (02) 6207 0587  
TTY: (02) 6207 0525  
Email: human_rights@dpa.act.gov.au |
| NSW             | NSW Anti-Discrimination Act | Anti-Discrimination Board  
T: (02) 9268 5555 or 1800 670 812  
F: (02) 9268 5500  
TTY: (02) 9268 5522 |
### Which law to use

You cannot have your disability discrimination complaint heard at the same time under both the Commonwealth Disability Discrimination Act and an equivalent state or territory law. All the Acts have advantages and disadvantages, and the **best one for you to use depends on your case.**

Some of the things to think about are:

- whether your complaint is covered by the Commonwealth Act or a state/territory act
- what outcomes you want
- likely costs
- whether there are exemptions that apply under one act but not another.

### Making a complaint about discrimination

To take legal action about disability discrimination, you should think about the following questions:

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<th>NT</th>
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<th>Northern Territory Anti-Discrimination Commission</th>
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<td>T: (08) 8999 1444 or 1800 813 846</td>
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<td>F: (08) 8981 3812</td>
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<td>TTY: (08) 8999 1466</td>
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<td></td>
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<td>Email: <a href="mailto:administrationadc@nt.gov.au">administrationadc@nt.gov.au</a></td>
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<th>Qld</th>
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<td>T: 1300 130 670</td>
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<td>TTY: 1300 130 680</td>
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<td></td>
<td></td>
<td>Email: <a href="mailto:info@adcq.qld.gov.au">info@adcq.qld.gov.au</a></td>
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<th>SA</th>
<th>South Australian Equal Opportunity Act 1984</th>
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<td></td>
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<td>T: (08) 8207 1977 or 1800 188 163</td>
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<td>F: (08) 8207 2090</td>
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<tr>
<td></td>
<td></td>
<td>Email: <a href="mailto:eoc@agd.sa.gov.au">eoc@agd.sa.gov.au</a></td>
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</tbody>
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| Tas | Tasmanian Anti-Discrimination Act 1998     | Tasmanian Office of the Anti-Discrimination Commissioner |
|-----|-------------------------------------------|------------------------------------------------———-|
|     |                                          | T: (03) 6233 4841 or 1300 305 062              |
|     |                                          | F: (03) 6233 5333                               |
|     |                                          | TTY: (03) 6233 3122                             |
|     |                                          | Email: antidiscrimination@justice.tas.gov.au   |

|-----|-------------------------------------------|------------------------------------------------———-|
|     |                                          | T: 1300 891 848                                 |
|     |                                          | F: 1300 891 858                                 |
|     |                                          | TTY: 1300 289 621                               |
|     |                                          | Email: information@veohrc.vic.gov.au            |

| WA  | Western Australian Equal Opportunity Act 1984 | Western Australian Equal Opportunity Commission |
|-----|-----------------------------------------------|------------------------------------------------———-|
|     |                                              | T: (08) 9216 3900 or 1800 198 149               |
|     |                                              | F: (08) 9216 3960                               |
|     |                                              | TTY: (08) 9216 3936                             |
|     |                                              | Email: eoc@equalopportunity.wa.gov.au           |
What do I want out of it?
What will it cost?
Do I need a lawyer?
How do I find help?
Am I eligible to make a complaint?
Am I inside the time limit for filing a complaint?
Should I complain under the Commonwealth Act or a corresponding state/territory act?
How do I complain?
What needs to be in my complaint?
How long will it take?
What happens to the complaint?
What is conciliation?
When will the complaint go to court or a tribunal?
What happens in the court or tribunal?

Who can make a complaint?

Under the Commonwealth Disability Discrimination Act and corresponding state/territory laws, you can complain of disability discrimination if you:

- have a disability and believe you have been unlawfully discriminated against because of it
- are an ‘associate’ (such as a parent, spouse/partner, friend or carer) of someone with a disability and believe that you have been discriminated against
- are acting on behalf of a person with disability (or an associate) who is experiencing unlawful disability discrimination (this covers parents acting on behalf of their child with a disability).

How do I make a complaint?

Complaints must be in writing and given to either the Human Rights and Equal Opportunity Commission (HREOC) or the relevant state/territory agency. All have standard complaint forms that may help, but you don’t need to use those forms if you don’t want to. Make sure you include the following details:

- contact details for all parties involved
- a report of what happened and who was involved
- an explanation of what you would like to happen.

Be sure to keep a copy of your complaint.

Complaints under the Commonwealth Disability Discrimination Act can be lodged by mail, fax or via HREOC’s website. HREOC’s complaint-handling process is free.

Time limits on complaints

You have to make your complaint within 12 months of the discrimination happening unless you have a very good reason for the time to be extended.
How is the complaint assessed?

When HREOC receive the written complaint, they will determine whether the circumstances of the complaint are covered by the law. If they believe that they are not, or that they fall under some other area of the law, HREOC will let you know that they can't accept the complaint.

**More to explore**
- Children with a Disability
- Raising a child with a disability
- Education rights for children with disabilities
- Disability law in Australia

**Web links**
- Human Rights & Equal Opportunity Commission
- Lawlink New South Wales - Disability discrimination: Your rights
- NSW Antidiscrimination Board - How to deal with discrimination, unfair treatment or harassment
- Disability Discrimination Act 1992
- Youth Disability Advocacy Service (Victoria)
- Disability Discrimination Legal Service (Victoria)

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