



Australian Blindness Forum
ABN 47 125 036 857

Submission on the Consolidation of Commonwealth Anti-Discrimination Laws

The consolidation of Commonwealth anti-discrimination laws is welcomed by the Australian Blindness Forum, who submits the following response to your discussion paper on Australia's human rights framework.

The Australian Blindness Forum (ABF) is the peak body representing organisations of and for the Blind.

The focus of our submission is to encourage the refinement of legislation that will assist to eliminate discrimination against all people with disabilities, and that it will also reinforce the understanding that people with disabilities have the same rights as every other Australian. We understand that the Attorney-General's Department is looking at the consolidation of four separate pieces of legislation, and this submission will provide input in relation to the *Disability Discrimination Act 1992*.

The ABF reinforces in this submission that Australia's discrimination laws must be strong enough to protect the rights of people with disabilities. As a group that is among the most vulnerable in our community, and the most susceptible to physical, mental, and financial stress and hardship, it is imperative that all efforts are made to create equal access to services in communications, employment, transport, recreation, arts, accommodation, telecommunications, and other areas.

In summary, the ABF supports:

- Consolidating the various anti-discrimination acts, into one modern piece of legislation;
- Clearer and consistent anti-discrimination legislation;

- positive duty, not negative;
- amending the legislation to alter it from a complaints-based system, to a system that is positive and educational;
- promoting the elimination of discrimination, and
- consideration in development stages of projects of universal design principles.

Consolidation

The ABF supports the consolidation of the five Acts relating to discrimination and human rights, being the Racial Discrimination Act 1975, Sex Discrimination Act 1984, Disability Discrimination Act 1992, the Age Discrimination Act 2004, the Australian Human Rights Commission Act 1986, and some provisions in the Fair Work Act 2009 that relate to discrimination.

As stated in your discussion paper, the provisions in the *Disability Discrimination Act* follow on from Australia's obligations under the Convention on the Rights of Persons with Disabilities (CPRD), as the other Acts do also come under other UN conventions.

In relation to consolidation, the ABF asks that no requirements or limits be lost in the transition. The ABF would like protection in the legislation for people with disabilities to be clear and precise.

In Australia, the majority of people acquire severe vision loss over the age of 65¹ so we highlight the discrimination that affects our clients is both vision loss and age related.

The new legislation must seek to clarify discrimination and set consistent standards against discrimination.

Positive Duty

The ABF supports the legislation moving to impose positive duties. It is better to have a community that understands its position on human rights, rather than imposing a law or charge without sufficient knowledge around this fact.

How exactly to do this is a large task, but it must be begun rather than to retreat from it. Knowledge, information, and community involvement and national recognition of what is expected in Australian society will allow everyone to work towards equality.

¹ ABF Submission to the Response to the Caring for Older Australians Report, 2011

Complaints

For people with a disability, and our target group of blind and vision impaired people, it is important that the system moves from a complaints-based system, to an open accountable system whereby the Discrimination Commissioner can investigate any situation without a complaint being made. For people with a disability, it is often difficult, financially prohibitive, or too time consuming to make a complaint. However an more accountable system leaves the environment open to both discovery but also education about discriminatory practices.

This will also make the process less burdensome for someone with a disability, and also not be dependent on a single person to come forward, but broadens the responsibility to the public, and the efforts of the Discrimination Commissioner's office. The Commissioner should have the powers to investigate and prosecute without having to rely on a complainant who might find the process too difficult and demanding with their disability to come forward, or be in a position to engage in a legal dispute.

The legislation must also provide simple, cost-effective mechanisms for resolving complaints. An example is the recent case in Australia of Mrs Sheila King making a discrimination case against Jetstar Airlines for not allowing for sufficient numbers of people with wheelchairs able to access each Jetstar flight. Mrs King won the argument that it was discriminatory behavior, however lost the second argument that Jetstar should be able to provide a service for more than 2 people per flight with a disability. Mrs King has to pay costs, which included the registration fee to the courts, even though the action was deemed discriminatory.

Due once again to the financial strain on people with a disability, ABF would like to see a nil cost for bringing discrimination cases to court.

Promotion of the elimination of discrimination

ABF would like to see more positive and informative promotion and education of the public for the elimination of discrimination. Across all areas, there is still a lack of knowledge in the Australian community about discriminatory behaviour and also what to do to affect change.

For the blindness sector, access to equivalent services and activities that create equality within our community and places of employment is still a long way off.

Summary

In summary, we include a quote from the *Shut Out report*: the experience of people with disabilities and their families in Australia (National Disability Strategy Consultation Report, 2009), "It should not require such an extraordinary effort to

live an ordinary life". This is the premise for what we seek in anti-discrimination legislation - that life is not made more difficult for people with disabilities. In the consideration of this consolidation of legislation, we ask that the starting premise be from a position of all people being equal.

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About the Australian Blindness Forum

The Australian Blindness Forum was formed in 1992 and was registered as an Australian public company limited by guarantee in 2007. It is funded through the contributions of its members, which are the major Australian organisations providing services to people with blindness or vision impairment and the consumer organisations, Blind Citizens Australia and Blind Citizens WA.

Members of the Australian Blindness Forum are committed to assisting people who are blind or vision impaired to become and remain independent, valued and active members of the community. Services provided by members include - adaptive technology, advocacy, accommodation support, Braille training and support, computer training, community support programs, counselling, education and training, employment services, equipment, guide dogs, independent living training, information in alternative formats to print, library services, orientation and mobility, recreation services, support for low vision, systemic advocacy and design advice, and transport.

The members of the ABF are Blind Citizens Australia, Blind Welfare Association of SA, CanDo4Kids - Townsend House, Guide Dogs NSW/ACT, Guide Dogs Queensland, Guide Dogs Victoria, Macular Degeneration Foundation, Royal Guide Dogs Association of Tasmania, and the Royal Society for the Blind of South Australia. Associate members are Australian DeafBlind Council, Canberra Blind Society, RPH Australia, CBM Australia, Glaucoma Australia, and Blind Sports SA.

Further information on the Australian Blindness Forum may be found via the website at <http://www.australianblindnessforum.org.au>.