

Paraplegic & Quadriplegic Association of Tasmania Inc.

Submission to the Productivity Commission Inquiry into Disability Discrimination Act 1992

**Submitted by:
Paraplegic & Quadriplegic Assoc. of Tasmania Inc.
PO Box 1528
GLENORCHY Tas. 7010**

15th May, 2003

DISABILITY DISCRIMINATION ACT INQUIRY 2003

To consider what impact the Disability Discrimination Act 1993 has had on the disability community it must be considered as to how the DDA was perceived by the many disability activists who were involved in the initial stages from 1981 until 1992.

There was wide consultation held in early 1991/1992 to consider how could a Disability Discrimination Act best serve people with disability in Australia. Having participated in the consultation the writer of this submission believes that many activists in the disability community were led to believe that the only way the Act would gain successful passage through Parliament was to have a 'complaints based' Act.

The expectation that the Disability Discrimination Act would be 'successful' was questioned, at the time, by many people who believed that a complaint based Act would be a 'weak' Act.

Since that time the DDA Act has assisted many people but there are many more people who (perhaps) would have benefited more had the Act been enforceable rather than having to lay a complaint, then have conciliation and then, if that proved unsatisfactory, take the complaint to the Federal Court.

For any person this can be daunting – for many people with a disability it can make them very vulnerable.

Aart Hendriks, who worked as an associate researcher at the Health Law Section of the University of Amsterdam and is a member of the board of the Dutch Section of the International Commission of Jurists (ICJ) said in his essay in "Human Rights and Disabled Persons" 1995 (page 61) states 'disabled people should be bestowed with an enforceable right against all forms of discrimination, including discrimination that occurs as a result of the denial of a reasonable accommodation. Secondly, positive action programs¹ - including social and, if necessary preferential treatment programs – should be designed to rectify the historical subordination of disabled people to their able-bodied environment. Programs should be developed to eliminate the real causes of disadvantage and vulnerability and should take away all the environmental barriers (including negative attitudes) that inhibit disabled persons from enjoying and exercising their human rights.'

It is with this in mind that the ParaQuad Association of Tasmania Inc. presents its submission to the

Complaints:

Whilst the DDA has many positives it is possibly correct to say that many people who consider that they have been discriminated against would not be willing to take a complaint to H.R.E.O.C. because of the lengthy process and the emotional, physical and (perhaps) financial cost to them. Many people now prefer to access their State Anti-Discrimination Act. To have to undertake the conciliation process can place enormous stress on the complainant as many of them have made a complaint against big corporations who have access to the best legal representatives.

ParaQuad Tas. understands that if a person makes a complaint to the State body (or vice versa) then you cannot make the same complaint to the other body.

- **The Paraplegic & Quadriplegic Association of Tasmania Inc. (ParaQuad Tas.) believes that many people with physical disabilities may be reluctant to make their complaints through the DDA because of this process if it is easier and less confronting to make a complaint through their state DDA.**

¹ Goldschmidt (1989), supra.

- **It is imperative that in the future H.R.E.O.C. and/or other appropriate bodies are able to initiate complaints so that the person/s who believe they are being discriminated against are less threatened by the process of initiating the complaint.**
- **Although it is considered that the privacy of the complainant is ‘protected’ by confidentiality ParaQuad Tas. believes that many people, after conciliation, wish to discuss with their peers and / or friends, family and organisations the process of that conciliation. It appears that the confidentiality clause restricts the complainant making their complaint public but they should be allowed to (if they so desire) so that others may realise that complaints can be successful.**
- **ParaQuad Tas. is concerned that many people with disabilities and their primary carers are not fully familiar with the role of HREOC. It appears that many people ask how they can take action but are unable to comprehend why it is necessary for them to make a complaint and therefore prefer not to complain to people in authority rather only to friends and/or family.**

ParaQuad Tas. has been concerned that many Local Governments (of Tasmania) are not willing to take leadership when approving developments / plans that should comply with Australian Standards that relate to access. If there was to be an **Australian Bill of Rights** then perhaps much of the access issues would not occur. It appears that some Councils do not always take responsibility if standards are not met as they refer to the ‘sub-contracting of plan approval’. When this attitude is taken then individuals, who are disadvantaged by council’s inaction, believe that to ‘win’ with a complaint would take too long and may not be successful.

ParaQuad Tas. believes that many people with physical disabilities do want to be employed but for many people it is difficult to obtain their skills through TAFE or University because of the actual additional costs that would be incurred. Most people with physical disabilities, who have not received compensation, do not have the money for transport, medical equipment and supplies, resources for education etc.

- **ParaQuad Tas. recommends that, if people with physical disabilities, wish to gain education for employment that an additional ‘physical disability cost of living allowance’ be introduced to assist them to access appropriate education.**
- **That a system of ‘home computer / software / internet package’ be given to people with disabilities who are attending an education institute so that they are able to research their assignments by internet and also be able to carry out some of their education through home based education.**

With regard to Standards being developed by HREOC and the community there needs to be careful consideration. The Public Transport Accessible Standards are an excellent example of what can be achieved when the community works together to achieve standards. The whole process took almost ten years but has been worth it and from ParaQuad’s knowledge has been welcomed by the transport industry as well as the disability community.

The Australian Standards and the work the Building Code of Australia is undertaking will ensure that, in the future, access within the community will improve dramatically.

To consider developing education standards, we believe, will prove more difficult and whilst there is a need to consider how best to achieve equity for people with disabilities into education ParaQuad Tas. is not sure how this can be achieved in the short term. There has been an enormous increase for students with disabilities into education but the same increase into the workforce does not appear to have occurred.

There has been consideration given to a 'quota' system for employment by government in some countries during the past 20 years but ParaQuad Tas. does not believe that this has occurred throughout Australian governments. Governments could research how many students with disabilities, in tertiary education, who are completing their courses are seeking employment, gaining employment (in their chosen career), moving forward in their career path, what equipment and support is required etc. Then undertake a long term study (say ten years) of these students to ascertain what is successful and what is not.

In conclusion, ParaQuad Tas. believes that for the Disability Discrimination Act 1993 to be successful HREOC should consider how best to ensure that Federal and state DDA's work together. People making complaints can take their complaint to HREOC if necessary if the complaint is shown to be national rather than state or vice versa.

The issue of the complainant having to take the complaint to the Federal Court if conciliation is not successful and bear the costs if the case is not successful at Court level is not acceptable to people who are being discriminated against. This would not occur if there was an Australian Bill of Rights.

Jenny Stanzel, AM

For and on behalf of Paraplegic & Quadriplegic Association of Tasmania Inc.