

Queensland Parents for People with a Disability

Submission to Inquiry into Disability Discrimination Act (1992).

While both the State of Queensland and the Commonwealth have legislated against discrimination of people on grounds of their disability, it is clear that in Queensland, people are still being discriminated against.

The DDA (1992) is NOT meeting its objects to eliminate discrimination, ensure equal rights and promote community change.

The DDA is not a new piece of legislation still requiring time to bed in to the system. It has been on the statute books for 11 years; why are we still talking about the implementation of this piece of legislation?

Discriminators must receive CONSEQUENCES if the goals of the DDA are to be met. Currently the system relies on outcomes. QPPD believes that an important step towards reducing discrimination is by delivering real consequences, including the introduction of fines.

QPPD highlights the following social impacts of the legislation:

1. Personal cost

People who have used the DDA to seek justice have found the process to have a very high personal cost. We are unable to put a cost figure on the enormous stress incurred by individuals and families when fighting discrimination. People suffer first from the initial discrimination and then suffer again when needing to prove that it happened.

The issue of cost relates fundamentally to the power imbalance between individuals and large organisations/bureaucracies. Individuals and their families often have few resources to be able to fight discrimination, whereas organisations and bureaucracies often use massive resources to respond to discrimination complaints. For example, finding and paying for expert witnesses and lawyers is much easier for the “discriminators” than those discriminated against.

The length of time to resolve complaints has extended in some cases to years. This is very costly for individuals and families. One QPPD member waited 12 months for an apology alone.

The onus is placed very heavily on people with disabilities and their families/advocates to enforce the DDA. It is up to individuals to make a legal complaint that discrimination has taken place. These processes are lengthy, expensive and emotionally exhausting. QPPD is aware that people with disability and their families in Queensland advise each other NOT to use the DDA for these reasons.

Discrimination is a daily experience for many people. We live and breathe it constantly. It is distressing that the legal recourse for ensuring basic rights is not being utilised. We predict that if the DDA system continues in its present pattern fewer people with disability will have the strength, courage and resources to use it.

2. Justice is not being served

QPPD is aware that many people who have used discrimination legislation have not received justice. In some cases, discrimination has been found to take place legally. The defense of 'unjustifiable hardship' means that discriminators can be exempted from compliance by arguing that they cannot afford to do the right thing. Can we continue to afford to continually discriminate against people with disabilities? It appears that companies, organisations and bureaucracies come before the human rights of vulnerable citizens. The capacity for community change is lessened when discriminators continue to go unpunished.

3. Lack of awareness

QPPD believes that the community is largely unaware of the DDA and discrimination against people with disability in general.

4. Community attitude to litigation

The debate in the wider community of litigation and compensation payments has increased concerns amongst people with disability in taking a legal recourse. We are concerned that the general public may view people with disability as overly litigious. However, the general public is not aware that this is our ONLY recourse in seeking justice.

When someone breaks a law the victim is not required to prosecute. Their role is simply as witness. However, when someone breaks the DDA the victim has to prosecute. This is clearly unfair. Once again it appears that our law is on the side of the "discriminator" not the "discriminated against".

A NEW APPROACH

We believe a multi-path strategy is needed to meet the goals of the DDA to eliminate discrimination and to improve the system including:

- Absolute Rights
- Onus on discriminators (not people with disability)

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- Action plans and assistance for services to meet their obligations under the DDA
- Cooperative and collaborative arrangements between people with disability, families and services
- Ongoing evaluation and review of policies and practices
- Public awareness raising
- Consequences for discriminators including fines
- Alternative Complaints Mechanisms such as the Alternative Dispute Resolution Framework based on the complaints process established in McAfee, Jackson (1999).

See <http://members.ozemail.com.au/~ddasp/Position%20Paper.htm>

QPPD welcomes this Senate Inquiry into the Disability Discrimination Act (1992). To discuss any part of this submission further contact:

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About Queensland Parents for People with a Disability (QPPD)

QPPD is a statewide systems advocacy organisation, which was established in 1981. QPPD conducted a number of advocacy ventures by parents during the 1980's covering issues including family support, education, quality lifestyles for adults and guardianship. Since 1990 QPPD has been funded under the Disability Services Act from the Commonwealth Government to do statewide systems advocacy on behalf of people with disabilities. QPPD's mission is

QPPD vigorously defends justice and rights for people with disabilities by exposing exclusionary practices, speaking out against injustices and promoting people with disabilities as respected, valued and participating members of society.

In addition to this systems advocacy focus, QPPD continues to develop a wide membership of families and friends across Queensland and Australia who remain in contact with the organization. As well as personally supporting one another, these families take up issues collectively on behalf of sons and daughters and others, speaking out against injustices and promoting people with disabilities as valued and participating members of society.

Since its establishment over 22 years ago, QPPD has developed a strong advocacy voice and in recognition of its standing and expertise, QPPD is represented on Queensland Government initiatives such as the Ministerial Taskforce for Inclusive Education, the Anti-Discrimination Commission Queensland Disability Advisory Group and the Standing Committee on the Certification of Achievements of Students with Impairment. In 2002, QPPD was called as a witness in the Senate Inquiry into the education of students with disabilities.