

The DDA says that if a candidate for employment cannot fulfil inherent requirements, then it is not unlawful for the employer to discriminate on the basis of disability. S 15 (4) (b) of the DDA imposes a duty of employers to consider making adjustments even as they apply the inherent requirement test.

S 15 (4) (b) rules that these adjustments can be rejected if it causes the employer unjustifiable hardship. The problem is that there is no real machinery in progress to policy this.

A young works manager told me he would hire a mature aged man for a job as storeman. When he advertised for staff he received numerous applications from mature aged men. He feared that they might suffer back strain lifting heavy material and even if they were in good health they might be much more prone to suffer back injury. He also feared that they might have suffered back strain in the past which would be reactivated by heavy lifting. This is an example of an employer being afraid to employ anybody with maturity in years for fear of disability.

Every supermarket employs check-out girls and they listen to the ping as a produce goes through the electronic machine to add up the bill. Sending a deaf girl for this job would obviously allow the employer to reject the applicant on the grounds that the disability prevents the girl from doing the job. To modify the process would be stated as too expensive. This prevents deaf girls from working in supermarkets and the Act virtually supports it!

In actual fact, one particular supermarket in the Gold Coast employs a totally deaf girl who does not rely on the ping noise at all. She just reads the register with her eyes and there is no need for any equipment modification at all. How many employers will be willing to do this? Very few, the answer being that there is a pool of normal hearing girls available, so why hire a disabled girl? The Act in this case actually encourages employers to evade being willing to put themselves out. What if a client speaks to the totally deaf girl? She wears a badge stating she is deaf and calls on a fellow worker to assist her in any problem.

At the present time the Federal Government is concerned that too many people are leaving the workforce too early in life. Most people by age 50 have begun to have symptoms of some form of disability. The DDA is often unable to really work in a satisfactory way because the Act cannot differentiate between what can be ruled as true requirements for the vacant job. An example, a firm of soft drink manufacturers always liked to hire immigrants because they would be keen to earn money and not worry if the work went on for even double shifts in summertime. In this scenario the disabled worker applying for work would be at a disadvantage because the work load would be very long at times.

The famous writer, George Orwell, described how he decided to apply for a job as a fish porter. He was asked to lift a huge basket and he found it too hard. Being rejected he hung about and noticed that nobody lifted the baskets on their own, they were all lifted by two men! The Act does not have the real teeth to get to what is happening in many of the actual workplaces.

The present government complains that too many workers do not improve their education once they enter the workforce. Yet at the same time the world economy is demanding more competitive work and employers want more effort. Workers find they

must devote much time to work and this leaves little time for study. Changing technology can cause many skilled workers to find themselves redundant. The present film industry is now under threat from digital cameras. It is believed that film will vanish within five years and this could see many film laboratory staff redundant.

Even if a disabled person does retrain they are at the disadvantage of having their disability limit their performance. The disability may be gradually worsening and what can be done now may not be possible tomorrow. Because of the competitive world market and the corporatisation of state owned institutions, there is much less scope to hire disabled people if there is any suggestion their disability will hamper them in their work.

The use of statistics must also be monitored because it is possible for employers to canvass workers to list any disability they have, even if they do not interfere with the work. For example, in the UK the Bureau of Statistics stated that in 1890 the average income was 4pound a week. This was not sure, it appears they divided the incomes by the population and got 4pound as the average figure and this painted an entirely erroneous picture.

Staff at most employment agencies are not qualified to really deal with people with disabilities. They require special training to deal with people who have a disability which is worsening. An example of this was experience by myself in 1991 or so. I was listed as having a hearing problem, this was usually dismissed with a "Well you can hear me alright!" but I also was listed as suffering from spondylolisthesis of the spine. I received a call from a female clerk telling me a job had just come up at a pub for a yardman. I went for the interview and I felt it was necessary to mention that I did have a back problem and then I was shown beer barrels and the result was I failed the interview. The female clerk seemed somewhat annoyed that I had mentioned the back condition. She basically had not really taken any notice of the fact the back trouble was a major concern. She only based her assessment on my deafness.

In my own case, I did retrain, it took seven years and it really was to no avail. The Act proved unable to show I suffered any discrimination yet no special assessment adjustments were made for my rating test because the Act stipulates the person must be able to do the job like any person without any disability.

If the deaf girl at the supermarket had applied to Human Rights because she not hired as a checkout girl then they would have rejected her under the Act. In my case, I could teach adults or on a one to one basis but was forced to try an area which was too difficult for my handicaps. To drive a car, one is not expected to be able to pass a test on a semi-trailer, yet this is what happened to me in effect.

In the soft drink company mentioned earlier, had been closely questioned and their work put under close examination, it would have become evident that no disabled person could be easily hired. I feel the Act needs more power to enforce change in the market place.

I personally feel the Act cannot be really effective until it is integrated with definite government policies on employing more older people and that should include many disabled people too. The problem is that there is rapid changing technology which can make some jobs obsolete and there is the Adam Smith element of getting the job done at the lowest price. Many large firms are not transferring their office jobs to India

where graduates are keen to work for lower incomes. Even hi tech software jobs have been moved.

To lose a job it 50 or to lose a job when there is a major disability is very traumatic. Naturally, governments -are seen as more secure employers but there is a trend for governments to abdicate responsibility by declaring, 'Let the market decide!'

The Human Rights Commission requires people to write out their cases in full. I feel this handicaps many people, those people who are from a non-English speaking background are at a disadvantage. Oral interviews would mean much more clearer understanding of problems. In the case of the deaf girl at the checkout in the supermarket~ she is as fast as any hearing girl and she does not rely on the pinging noise AT all. Yet if the Act was tested the employer could complain that modification was unjust yet the truth is there is no real need for any sound, checkout girl could read the price indicator!

At times some employers do not worry about disabilities at all and this can be harmful and do psychological damage to disabled people. One young totally deaf man was put into voluntary work as a truck driver's offsider. Communication was so poor the deaf man thought he was being paid! The work involved delivering furniture and this is one job which is totally unsuitable for any deaf person. The work involved manhandling heavy objects around small passageways and stairs etc. Aural communication was essential and any mistake could lead to a nasty accident.

The figures for disabled people working seems to show it is 2/3rds of the non-disabled work force. Unemployment figures show disabled people nre out of work far longer than non-disabled people. I *feel* a little uneasy with these ABS figures as I recall seeing that very few people on the Disability Support Pension g-tined employment. The figure was at 5% I believe.

I do know that in the 1950s there was a move to get more disabled people into work in the UK and companies were encouraged to recruit disabled people and all they did was list any disability any employee had to show they hired disabled people!

In my case the Human Rights Commission and the DDA proved to not be very effective. Once Human Rights s-iy no then you have no real rights. If you take on a company in the Federal Court you have no legal help and if you lose, and without legal help you will, then you have to pay the other side's legal costs.

After 7 years of study there was nobody I could call on. Nobody cared that enormous resources had been used to get me qualified, but all to no avail. I feel the DDA must be integrated with a general employment strategy to deal with aged and disabled people. The question of retraining is vital but with rising university fees it may be even harder to do.

On page A14 in the Appendix A it lists occupations and the percentage of disablement. An example is 23-9% for managers. It does not say if these disabilities were present when the work was obtained, was it listed on the application form? Are

the disabilities interfering with employment? Are the disabilities getting worse? A touch of arthritis could be listed as a disability.

Major changes are to be made to retirement and superannuation and I feel the DDA will need to be completely overhauled to dovetail in with the new changes. Employers should receive tax concessions for hiring disabled people such as the supermarket in the Gold Coast. Not tax concessions for doing a survey of existing staff's health problems. Employers need re-education on hiring people and understanding disabilities. For example, with the deaf who can hear some things, a loop-system might be necessary. because employers tend to be so out of touch with disabilities many disabled people hide their affliction with disastrous results.

My overall conclusion is the present Act has many weaknesses.

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