

DISABILITY DISCRIMINATION
LEGAL SERVICE

CLIENT INFORMATION PACK

Level 2, 247 Flinders Lane, Melbourne 3000

Phone: 03 96548644

Fax: 03 9639 7422

TTY: 03 9654 6817

Email: info@ddls.org.au

www.ddls.org.au and www.communitylaw.org.au/ddls

What is the DDLS?

The Disability Discrimination Legal Service is an independent, community legal centre that specialises in disability discrimination legal matters. The Service is a not-for-profit incorporated association registered as a Donation and Gift Recipient with the Australian Taxation Office.

A voluntary Committee manages the service. The DDLS Constitution states that the Management Committee must be a majority of people with disabilities. The members of the DDLS elect the Committee at the Annual General Meeting. The Service employs three permanent part-time staff: a Coordinator/Community Legal Educator, a Casework Solicitor and a Systems Administrator. Many people with disabilities, volunteers and students also contribute their efforts to the work of the DDLS.

The DDLS works as an active member within the community legal sector and the disability advocacy sector.

What does the DDLS do?

We provide the following free legal services:

Information:

The DDLS provides information about disability discrimination law in a range of formats free to all members of the community. Please find a copy of our publication 'Using Disability Discrimination Law', and our brochure, enclosed.

Referral:

If people who contact us do not have a disability discrimination issue or a legal problem, or may be better assisted by another service, then wherever possible, we provide an appropriate referral to an organisation that provides help for that problem.

Advice:

The Service also assists people with disabilities by providing a telephone or TTY advice service about disability discrimination. Face-to-face advice is also provided for people with disabilities where necessary. This service is by appointment only.

Casework Assistance:

The DDLS provides assistance to prepare and lodge complaints about disability discrimination with the Human Rights and Equal Opportunity Commission (HREOC) for the Disability Discrimination Act (Cth 1992) or the Victorian Equal Opportunity Commission (EOC) for Equal Opportunity Act (Vic 1995) matters. The criteria for people with cases to receive the DDLS casework assistance is listed on pages 4-6.

Community Legal Education:

The DDLS provides community legal education about disability discrimination legal rights tailored to meet the needs of the participants. This service is provided free to people with disabilities, or at low cost to service providers, businesses and government.

Policy and Law Reform:

The DDLS may work to change the law or policies that cause discrimination where disability discrimination is present but is not able to be the subject of a complaint, and the discrimination has an impact on people with disabilities access to justice or their capacity to participate in community life.

Casework Policy and Criteria

Initial Criteria

The following criteria are to be used as a guide in determining whether the DDLS will take on a case. Each point should be taken into consideration if it is relevant, however, the weight attributed to each may vary from case to case.

- 1) The merits of the case must be considered. The fact that a case has strong prospects of success will be looked upon favourably by the DDLS.
- 2) The DDLS will avoid taking on cases where there is a strong likelihood of a negative precedent being set if the case is lost. The DDLS may, however, in its discretion, take on the case if it considers that creating public awareness of the issues in the case outweighs the risk or consequences of setting a negative precedent.
- 3) The DDLS must consider whether it has the resources available to take on a case. Current and future caseload expectations of the DDLS will be taken into account.
- 4) If a case involves more than ground of discrimination, the DDLS will only consider taking it on if the person's disability is a substantial reason for the discrimination or the issues arising in relation to the discrimination on the grounds of disability.
- 5) The DDLS will not take on a case if the client can resolve it themselves if given some guidance, or the DDLS can resolve the issue at the time of consultation by drafting a letter or making a phone call. The client will simply be provided with such assistance and no case file will be opened.

- 6) The DDLS will not take on the case if suitable assistance can be provided by another person. In assessing the suitability of other assistance, account will be taken of the fact that the DDLS gives priority to public interest test cases and targets certain areas of discrimination and therefore may be able to provide specialist assistance in particular areas (see pages 2-3). If any alternative assistance would involve a cost to the client, the client's ability to meet that cost may be considered.
- 7) The DDLS may take on cases where the discrimination involves breaches of legislation other than Disability Discrimination legislation. In deciding whether to take on such a case the DDLS must, however, consider whether another organisation is better suited, and is able, to assist the client. The DDLS's main function will be to run Disability Discrimination cases.
- 8) The DDLS will liaise with the Human Rights and Equal Opportunity Commission (HREOC), the Anti-Discrimination Board and disability organisations to ascertain areas where legal assistance and investigation is most needed in relation to discrimination complaints. The DDLS will take this information into account when formulating target areas and assessing which cases it will take on.
- 9) The DDLS will only take on cases that promote the inclusion of people with a disability and are in accordance with the DDLS's Service and Access Policy.

Prioritising Cases

Given the limited resources of the service, it is not able to accept all cases that meet the above criteria. The following provides a guide to the priority the DDLS gives cases that meet the above criteria. The DDLS is not bound to take on cases in order of priority below; this is intended as a general guide only.

Public Interest Test Cases:

The first level of priority for cases the DDLS will take will be given to cases that are test cases in the public interest. A case will be a test case if it is likely to change law or practice in an area or clarify an area or question of law if successful. The change or clarification may only relate to an aspect of a law or provide for a change that is a step towards achieving a broader change. A case will be in the public interest if a decision in the case would affect a significant percentage of the DDLS's constituency or a distinct part of that constituency. For example, a case against a large service provider could have an effect on a significant proportion of the DDLS's constituency.

Public Interest Cases:

The second level of priority will be given to Public interest cases.

Test Cases:

The third level of priority will be given to individual cases of a test case nature.

Individual cases:

The fourth level of priority will be given to cases which will result in an immediate effect for the individual bringing the action. For example, a case against a local club that has not made all of its facilities available to a member with a disability.

Issues Impacting on Casework

Client options:

The DDLS must always advise a client of all available options (of which it is aware) in relation to the client's complaint. If the DDLS recommends a particular option, it must base its recommendation on its assessment of the needs of the client, whether that client is an individual or a group.

As long as the option selected by the client does not conflict with any of the DDLS's policies, and the DDLS has sufficient resources, it must pursue the client's complaint through the option selected by the client.

Outline of process:

Before commencing any procedure the DDLS must provide the client with an explanation of the processes that are to be followed in order to pursue the complaint in the manner chosen by the client. These explanations are to be provided at each new stage, or with each new development in the process.

A client must advise the DDLS if they wish to continue with the process. The DDLS must take no further action on a complaint if the client advises that they no longer wish to pursue it.

The DDLS may, however, if it thinks it is appropriate and the client agrees, inform the Attorney-General and/or the Commissioner of the general nature of the discrimination and ask him/her to investigate the matter.

Interim Orders:

Although the DDLS recognises that many matters may have aspects of urgency the DDLS will only seek interim orders under any relevant legislation if failure to do so will result in the client facing immediate threat to their safety or well being. Examples of such situations may be where a client will lose their job or housing before the matter can be resolved.

Briefing Counsel:

The DDLS will attempt to brief counsel on all matters that are likely to be set for more than two days of hearing.

Act on instruction only:

The DDLS must take all reasonable steps to ensure that it is at all times acting on the instructions of the client.

Representative complaints:

The DDLS will only lodge a complaint as a representative complaint, as defined in Section 89 of the DDA, if it is satisfied of the following:

- The complaint is about an issue that affects a distinct group in the same manner
- The complaint is more likely than not to have a positive outcome.

The DDLS Caseload:

Due to the differing resource requirements of cases, it is recognised that the DDLS cannot estimate the number of cases it will be able to handle at one time. The DDLS will maintain a caseload that its resources can bear.

Complaints

Because the DDLS is committed to providing the highest quality of service to clients, we believe it is important for our clients to be aware of the opportunity to lodge a formal complaint if they feel DDLS has acted wrongly towards them personally or with regard to their case.

The purpose of the complaints process is to increase clients' satisfaction with our Service, and these procedures are not to be used to air personal grudges in any circumstance.

There are two kinds of complaints that can be made – complaints about individual staff or Management Committee members, and complaints about the organisation as a whole.

Formal complaints can be lodged at the DDLS office, on audio-tape or in writing. Complaints should be addressed to The Complaints Officer, DDLS Management Committee.