

MAKING A DISABILITY DISCRIMINATION COMPLAINT

If you have a disability or impairment, rely on a carer, assistance animal or disability aid or if you are associated with a person who has a disability or impairment (for instance, you are a parent of someone with a disability) you are protected from discrimination by both the *Disability Discrimination Act 1992* (Commonwealth) and *Anti-Discrimination Act 1991*.

Direct and indirect discrimination

There are two types of discrimination, direct and indirect. Both are prohibited and may form the basis of a complaint to either the [Australian Human Rights Commission](#) (Commonwealth) or the [Anti-Discrimination Commission Queensland](#).

Direct discrimination occurs when someone treats or proposes to treat a person with a disability less favourably than they would a person without a disability in the same or similar circumstances, unless the provision of special services or facilities required to provide equal treatment would cause unjustifiable hardship on the alleged discriminator.

Graham, Judy and their son Josh (names changed) went for a holiday at the beach. At their accommodation, the family were treated appallingly and they believed this was due to Josh's disability. Graham and Judy decided to make a complaint to the Anti-Discrimination Commission and consulted DLQ so that they could understand the process. We explained to them the difference between bad treatment and discrimination, the things that they would need to prove to establish that their family had been discriminated against and explained the process that would be followed by the Commission and then the Queensland Civil and Administrative Tribunal.

Indirect discrimination occurs when a person with a disability can't comply with a proposed rule or practice and this causes them—or is likely to cause—disadvantage. However, if the rule or practice is deemed reasonable and has regarded all circumstances—including consequences for people with a disability as well as the cost of providing alternatives—it is not unlawful.

Jayden (name changed) was having problems at school because of his disability. His parents had tried to work with the school to help them understand how they could make simple adjustments to his work and his schedule to allow him to participate properly in his education and realise his potential. School administrators did not listen to Jayden's parents and failed to make the adjustments requested. As a result, Jayden was no longer able to attend the school. Disability Law Queensland (DLQ) assisted Jayden's parents to make a complaint to the Australian Human Rights Commission and represented them at the conciliation. After the conciliation we helped Jayden's parents negotiate a confidential settlement agreement.

Before you lodge a discrimination complaint, consider whether an informal approach is more appropriate for your situation. Perhaps you want to have an ongoing relationship with your discriminator (particularly in a workplace or education institution) in which case it may be preferable to write to them outlining your concerns or meet with them in person.

Discrimination areas

Conduct is discriminatory if it occurs in one of the below areas:

1. **Employment** – an employer must not discriminate against a person with a disability in any employment process (recruitment, terms and conditions of employment, promotion or dismissal) or make assumptions about a person's ability to perform a role because of their disability. [Find out more.](#)
2. **Education** – an educator (including public, private, primary, secondary or tertiary) must not discriminate against a person with a disability in any facet of education (admission, enrolment terms and benefits, exclusion or suspension, assessment and examination, and access to resources and facilities). [Find out more.](#)
3. **Provision of goods and services** – a provider of goods or services must not refuse to provide goods or services to a person with a disability or provide those goods or services on less favourable terms or in an unfair manner.
4. **Accommodation** – an accommodation provider (landlords, landladies, real estate agents, and landowners) can neither refuse a person with a disability an application for accommodation nor provide accommodation on less favourable terms than they would to an able bodied person. [Find out more.](#)

To find out more about making a discrimination complaint, call Disability Law Queensland on 3622 1250.