

DENN

DISABILITY EQUALITY NETWORK NEWS

6th Edition, November 2006

Welcome

Welcome to the sixth issue of Disability Equality Network News (DENN), the newsletter of the Disability Reference Group of the Equal Opportunity Commission Victoria. DENN is produced quarterly, on the second week in February, May, August and November. We release DENN by e-mail in .rtf and .pdf versions. Editions can be downloaded from the Commission's website at <http://www.eoc.vic.gov.au> under 'Publications'. We can supply print and large-print versions on request.

Enquiries, and to join mailing list: contact michael.uniacke@eoc.vic.gov.au

Human rights conference to greet 2007

Freedom, Respect, Equality and Dignity

Human Rights Conference, Melbourne, February 27th 2007
ANZ Pavilion, Art Centre, St Kilda Rd, Melbourne

In 2007 Victoria will become the first state to launch a Charter of Human Rights and Responsibilities and will also mark the 30th anniversary of anti-discrimination legislation. To celebrate these events the Equal Opportunity Commission Victoria (to be renamed the Victorian Equal Opportunity and Human Rights Commission) will stage a major conference on human rights.

Keynote speakers:

- Sir Nigel Rodley, UN Special Rapporteur on Torture from 1993 to 2001 currently a member of the UN Human Rights Committee and a Commissioner of the International Commission of Jurists.
- Dr Sima Samar, the first woman in the post Taliban Afghanistan government and the UN's special envoy to Darfour
- Major Michael Mori US military lawyer, defence counsel for Guantanamo Bay detainee David Hicks (subject to military commission hearings)

The conference will also feature lively panel discussions, a youth forum and a cocktail party reception.

Conference outcomes

- Learn more about the Charter of Human Rights and Responsibilities and the role of the Victorian Equal Opportunity and Human Rights Commission.
- Share and expand your understanding of human rights principles and why they are important for all Australians.
- Contribute to debate about human rights issues and share experiences about how human rights can be better protected and enjoyed
- Celebrate 30 years of anti-discrimination legislation in Victoria

Who will benefit?

- Staff, managers and elected officials of:
- The public sector
- Local government
- Legal profession
- Community and welfare organizations
- Human rights advocates and educators

Registration

\$120 or \$60 for not-for-profits.

To register your interest or for more information please contact Slavka Scott Slavka.scott@eoc.vic.gov.au

Call for abstracts

The Commission is currently seeking abstracts for presentation at the Human Rights Conference.

Abstract Categories

All abstracts should address one or more of the conference themes – Freedom, Respect, Equality and Dignity.

Abstracts are encouraged in the following categories:

- Charting human rights – What a Human Rights Charter means for Victoria?
- Applying human rights principles to practice
- Making a difference through advocacy/education
- Reality check – the experience of human rights for Victorians from diverse backgrounds.

Instructions for submitting conference abstracts

All abstract submissions must be submitted electronically by 17th November 2006

Abstracts will be selected for presentation by the Equal Opportunity Commission Victoria Human Rights Conference Reference Group.

Applicants will be notified by e-mail whether their proposal was accepted 29th November 2006

Abstracts should be sent to: Slavka.scott@eoc.vic.gov.au

For more information about the Human Rights Conference – Freedom, Respect, Equality and Dignity visit www.eoc.vic.gov.au

Acknowledgements

Equal Opportunity Commission Victoria acknowledges the support of its Human Rights Conference Reference Group. Members include: Federation of Community Legal Centres; Human Rights Forum, The University of Melbourne; Human Rights Law Resource Centre; Law Institute of Victoria; Public Interest Law Clearing House; The Charter Group; The Justice Project; Victoria Law Foundation; Victorian Council of Social Services; United National Association of Australia (Victoria).

Excellent response to taxi survey

The survey on quality-of-service issues as described in DENN #5 (*"Taxi survey looks at quality-of-service for passengers with disabilities"*) has had an excellent response.

More than 400 responses have been received from passengers with disabilities, and more than 100 taxi drivers and depot operators have made comments from their side of the issue. This far exceeded what we anticipated would be a reasonable number of responses.

While numerous concerns got an airing, it was also good to see many positive comments made. There are certain trends we have seen emerging through our interviewing, but the final analysis may change.

At present the data is being collated and analysed. It will be reported to the Commission and to the taxi industry working group, and we will draw up some recommendations.

Amendments to the EO Act – what will they mean?

Recent amendments to the *Equal Opportunity Act* will be of great interest to many, including people with disabilities and disability advocates.

The amendments, which came into effect on 11 October 2006, allow representative complaints (on behalf of a group), expand the categories of industrial activity discrimination, and revise the definitions of 'employer', 'employee' and 'employment'.

The changes in relation to representative complaints means that the Commission can accept a complaint from a person or group acting on behalf of someone with a complaint. This means that a person with a disability does not have to make a complaint themselves directly but can ask an individual (such as a carer or advocate) or an organisation representing people with disabilities (such as ParaQuad or Vision Australia) can make the complaint for them. This change removes some of the challenges faced by people in making and seeing through a complaint of discrimination. It acknowledges that much discrimination is systemic in nature and that it is unfair to expect one person to take on the system in order to get a fair go.

The Commission will conduct free information sessions on these amendments. They will explain these amendments and will answer your questions. They will be conducted in the training rooms at 3/380 Lonsdale street on

Thursday 30 November	10 am to 12 noon
Monday 4 December	5.30 pm to 7 pm
Tuesday 5 December	4.30 pm to 6 pm

If you wish to attend these information sessions, please register by emailing Samantha.roberts@eoc.vic.gov.au or phoning Samantha on (03) 9281 7106. Further information will be made available on the Commission website at www.eoc.vic.gov.au.

A simple checklist for discrimination

One of the most common queries the Commission receives is from people who describe something that happened to them, and then ask, is that discrimination?

Sometimes it can be hard to work out what is discrimination and what is not. There are many instances of discrimination that take place every day but only some forms of discrimination are against the law. Sometimes the way people treat each other can be downright rude and disrespectful, but this does not necessarily mean it is against the law.

If you asked 20 different people what discrimination means to them you are likely to get 20 very different answers. While there are many different definitions which are probably all very good, the definition according to the law is quite particular.

When is Discrimination against the law?

The Equal Opportunity Commission Victoria helps people resolve complaints of discrimination that are against the law. For discrimination to be against the law, it needs to meet three criteria:

1) Discrimination has to have occurred on the basis of a personal characteristic that is protected by Equal Opportunity Act. There are 17 personal characteristics of which disability (called impairment in the Act) is one. The other personal characteristics covered in the Act are: age, breastfeeding, carer status, gender identity, industrial activity, lawful sexual activity, marital status, parental status, physical features, political belief or activity, pregnancy, race, religious belief or activity, sex, sexual orientation and personal association with someone who has any of the other personal characteristics.

2) Less favourable treatment: You need to be able to prove that you were treated differently or unfairly as a result of a personal characteristic covered under the Act.

For example, you are told you will not be offered a job because of your disability or you are refused service at a café because of your disability.

3) Discrimination has to have occurred in public areas of life. These include accommodation, clubs and associations, disposal (sale) of land, education, employment, the provision of goods and services and sport.

There are two kinds of discrimination. Direct discrimination is treating someone less favourably. Indirect discrimination is imposing a condition which someone with one of the personal characteristics covered by the Act cannot meet. (We discussed indirect discrimination in DENN # 4 May 2006, *"We didn't mean to discriminate"*.)

Putting it all together

If you can say that:

- (1) because of a personal characteristic covered by the Act***
- (2) you have been treated less favourably***
- (3) in a public area of life***

you may have a reason to make a complaint and should call our Advice Line.

Meeting all three criteria does not automatically mean that you have been discriminated against. Our Advice Line staff will help you decide if you should go ahead with a complaint based on your individual experiences.

The Equal Opportunity Commission's Advice Line on 9281 7100, fax 9281 7171, TTY 9281 7110, Country FreeCall 1800 134 142, e-mail complaints@eoc.vic.gov.au

December forum looks at advocacy and leadership

Mike Adams from the Disability Rights Commission (DRC) in the United Kingdom will speak on advocacy and leadership for people with disabilities at a forum at the Commission on December 7 2006.

Mike Adams is Assistant Director, Delivery and Learning for the DRC which was established by the British Government with a goal of achieving a society where all people with a disability can participate fully as equal citizens. Mike plays a leading role in taking forward activities concerned with education, employment, health and independent living. He is also responsible for the leadership strategy within the DRC such as conferences for people with a disability to raise leadership aspirations, with follow up forums which seek to provide actual leadership positions for up to 50 people.

The forum will take place on **Thursday 7 December at 10 am** at the Commission, 3/380 Lonsdale Street Melbourne. Following the speakers, questions and discussion, lunch will be available from 12:30 pm.

The event is jointly sponsored by the Commission, Leadership Plus, and the Office for Disability at the Department of Victorian Communities.

If you wish to come to this event, please register with: samantha.roberts@eoc.vic.gov.au or phone (03) 9281 7106.

Registration is free. Please advise when registering if you require a sign interpreter, an attendant carer, or other support.

Your questions answered

Do you have any questions about your rights in relation to discrimination against people with disabilities? In each edition we will publish one of your questions and the Commission's response. Please send your questions to michael.uniacke@eoc.vic.gov.au

Note that the replies to these questions are guides only for general interest and are limited to the information provided. Note also that the Commission takes an impartial stance when investigating complaints, and attempts to resolve them by mutual agreement from all concerned. If you have a specific query, contact the Commission Advice Line on (03) 9281 7100, Toll free (country callers) 1800 134 142, TTY 9281 7110, or email complaints@eoc.vic.gov.au.

People who are home-bound

Because of a physical impairment, I stay at home as it is too difficult for me to get out and around. I use the phone, the internet, e-mail and sometimes chat rooms to keep in touch with the world. I contacted a financial services company to open an account, and was told I had to get to a branch in person to organise this. After I told them I could not do so, they said I had to organise a power of attorney to open an account. I do not want to do this, and I feel I have been treated unfairly. Would this be discrimination?

In this situation, a complaint of disability discrimination is feasible. It may constitute indirect discrimination, assuming the requirement to attend in person to open an account and/or needing to appoint a power of attorney was a policy or established practice by the financial services company.

The question of reasonableness would of course be open to argument. One would need to consider if it was reasonable to expect a person, who is autonomous in all respects except mobility, to grant power of attorney. One would also need to assess the impact, including financial impact, on the company were a home service provided to the person and to others in the same situation.

The company might claim an exception under the Act in this situation. In broad terms, s.46 says that a service provider can discriminate against a person with a disability (by refusing or setting reasonable terms on the receipt of the service) if the service would be required to be provided in a special manner, and the service provider cannot reasonably provide the service that way, or if doing so would be onerous.