**COMPREHENSIVE DISABILITY ACCESS LAW FACTSHEET**

***Disclaimer****: this factsheet is designed to provide an overview of the legislation only and does not constitute legal advice. For more information see the Equal Opportunity Website or phone the office (details below).*

**Equal Opportunity Act**

The Equal Opportunity Act (‘EOA’) is a law that promotes equality of opportunity for all Australian citizens.

It prevents discrimination based on sex, race, disability and other grounds with an end goal of promoting citizens’ participation in economic and social life of the community.

\*This factsheet focuses on disability discrimination in relation to disability access.



**What constitutes a disability?**

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Disability in relation to a person simply means the total or partial loss of the person’s bodily or mental functions resulting from a disease or illness.

A person may be experiencing a disability if he or she suffers from:

* Total or partial loss of your bodily or mental functions
* Disease(s) or illness(es)
* Malfunction, malformation or disfigurement of your body part(s)
* Disorder or malfunction that affects your capacity to learn, thoughts processes and perception of reality

\*see s 5 of the *Equal Opportunity Act 1984* (SA)

**What are the type of disabilities?**



Disabilities can manifest in different ways, and many can be either congenital and present at birth, or can be caused by disease, illness or injury. Disabilities can fall into certain categories such as:

**Physical Disability**

* These are physical conditions impacting one’s mobility. For example, persons with physical disfigurement or malfunction may require mobility aid such as a wheelchair, a walking frame or may require the company of a carer or assistance animal.
* This category of disability requires venues to provide access assistance by installing ramps, elevator or other reasonable means of access assistance.

**Sensory Disability**

This category of disability comprises of:

* Hearing impairment
* Deaf
* Vision impairment
* Blind

These covers partial or total hearing loss, deafness, blindness and partial vision impairment, especially those not corrected by glasses or contact lenses.

Persons with these types of disability may require venues to install safe building designs, structures or audio-visual aids to ensure easy access to their premises.

**Cognitive Disabilities**

Cognitive and developmental disabilities comprise of a wide range of disorders, and include behavioural, executive function, speech and learning disorders. Persons with cognitive disabilities may experience comorbidity with other similar disorders and may require additional aids to prevent over-simulation.

Persons with cognitive disabilities may require venues to provide access assistance by undertaking the relevant measures to cater to the various types of cognitive disabilities.

**Rights to disability access services**

People living with disability have a legal right to enter premises and use facilities that are open to the public. They should not be subjected to any form of access discrimination based on their disability. This includes the right of a person with an assistance animal to not be separated from that animal when accessing a venue.

Venues are required to provide safe and suitable access onto premises to those with a disability just as they do with other members of the public. This includes facilitating a safe and proper means of access such as ensuring adequate space within venues, sufficient seating spaces, providing ambulant toilets, stair ramps and other necessary access assistance catering to the different types of disabilities.

Venues are not allowed to prevent access for people with disability (except in the case of unjustifiable hardship – see below).

\*see s 66 and 76 of the *Equal Opportunity Act 1984* (SA)



**Obligations of venues to provide access**



Venues are required by law to provide safe and suitable access onto premises to those with a disability, just as they do with other members of the public.

It is unlawful for venues providing goods and services to discriminate against another on the ground of disability. This includes prohibition against refusing or failing to supply goods and services; or implementing unfair or unreasonable terms and conditions on which or the manner in which the goods are supplied or the services are performed. In this regard, the owner of the place or facilities and the occupier of the place or the place where the facilities are provided will each be taken to offer or provide the services.

\*see s 66 and 76 of the *Equal Opportunity Act 1984* (SA)

**Unjustifiable Hardship Exemption**



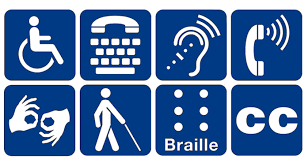
While it is necessary for venues to provide safe and suitable access, there may be some circumstances where it is lawful for a venue not to provide access, on the basis of ‘unjustifiable hardship’.

When determining whether taking measures to ensure disability access is reasonably feasible, all relevant circumstances in the particular case are taken into account, including the nature of the benefit or detriment likely to accrue or be suffered by the persons concerned, the effect of the disability, and financial circumstances required by the venue to fulfil the requirement of disability access.

In simple terms, in all the circumstances (considering costs and benefits to all parties), would it be unreasonable to ask the venue to take steps to ensure the particular access? If so, the venue may be exempt from the equal opportunity law regarding disability

\*see s 84 of the *Equal Opportunity Act 1984* (SA)

**Possible ways of providing access**



**Some of the possible ways in which venue can provide access includes:**

* Adopting principles of universal design in new/modified buildings.
* Ramps and walkways that allow access for people with wheelchairs, crutches and/or limited mobility.
* For multi-levelled venues, ensuring access to upper levels for people with limited mobility or who are in wheelchairs.
* Ensure that all floors, paths, rails, decking etc is safe to walk on.
* Ensure that bathroom facilities meet the standard that is required for a licensed venue; such as railing, sufficient space and accessibility.
* Adequate signage and assistance for people who are visually impaired.
* Removing any obstacles that are unnecessary and may cause those who are visually impaired to trip and fall.

**What happens when a complaint is made?**



A person who has been discriminated against on the basis of his or her disability has the option to make a formal complaint against the venue in writing to the Equal Opportunity Commission.

**Alternative Dispute Resolution - Conciliation**

If accepted by the EOC, the complaint will be allocated to a Conciliation Officer who will contact the person for more information. They will also notify the venue about the complaint and ask for more information from them. If the Conciliation Officer considers that the matter is appropriate for conciliation, the complainant and the respondent will be invited to participate in a conciliation session to try and resolve the issue. The main objective of conciliation is to resolve the dispute in a just, quick and confidential manner.

**Tribunal – South Australian Civil and Administrative Tribunal (SACAT)**

If the matter cannot be resolved through conciliation, it will then be referred to the Tribunal for hearing and determination.

**Useful information about the EOC**



**Information about the Equal Opportunity Commission ‘EOC’**

The EOC is an independent body with responsibility under the South Australian Equal Opportunity Act 1984 (the ‘EOA’), which seeks to promote equal opportunity, prevent discrimination and facilitate economic and social participation of its citizens.

* **Lodging Complaints**
  + Complaints regarding disability discrimination can be made via the EOC’s online complaint form at:
    - [https://eoc.sa.gov.au/what discrimination/making-complaint](https://eoc.sa.gov.au/what%20discrimination/making-complaint)
* **Other means of contacting the EOC**
  + **Telephone: (08) 8207 1977**
  + **Email:** [EOC@sa.gov.au](mailto:EOC@sa.gov.au)
  + **Conciliation Conferences**
  + **Free Legal Clinic. More information and bookings** [here](https://law.adelaide.edu.au/free-legal-clinics/equal-opportunity-commission-legal-advice-service)