

PRODUCTIVITY COMMISSION ENQUIRY INTO THE DISABILITY DISCRIMINATION ACT

INDIVIDUAL SUBMISSION BY KAEREST T HOUSTON

1.INTRODUCTION

My name is Kaerest Houston.

I have had multiple sclerosis for 34 years and over that time have been aware of many of the disadvantages of being disabled. It has led me to be an active member of the MS Society, the Hume City Council's Disability Action Team, the Sunbury People with Neuromuscular Conditions Support Group and a representative of the Hume City Council's Carers' Forum.

Although the Disability Discrimination Act has removed much of the social stigma of the disabled, the access issue is still the main obstacle to the disabled becoming full and safe members of our community.

In this submission I will address the following issues:

- (a) the definition of "Disability";
- (b) access to buildings, transport, etc.; and
- (c) measurement of discrimination

2.DEFINITION OF DISABILITY

The definition of "Disability" in the Act is too broad.

The following should be deleted:

"*disability*, in relation to a person ... includes a disability that: ...

- (i) previously existed but no longer exists; or
- (j) may exist in the future; ..."

By including these in the definition, the benefits of the Act are conferred on those who do not really need the protection of the Act, and has the potential to lead to its abuse.

On the other hand, the definition could be expanded to include a person with the care of two or more children under the age of five. This would give a temporary classification to assist with access etc. to such persons who are to all intents and purposes suffering a temporary disability. This is recognised in some public car parks where parking facilities are provided for parents with strollers or prams, alongside car parking facilities for the disabled.

3.ACCESS TO BUILDINGS, TRANSPORT, ETC.

The following problems have been observed with respect to access for the disabled:

(a) Physical access to all parts of a building is not always provided. For example it may be possible for someone in a wheelchair to enter a cinema, or other place of entertainment, but not be able to access seating other than a small number of spaces provided as an afterthought by the building's designers. Further, there may not be provision for adjacent seating for carers or other family or friends.

The new Australian Centre for the Moving Image, (ACMI), theatre at Federation Square in Melbourne has only one row of seating for those who cannot use stairs. This is the back row in the theatre, and the official exit is at the bottom of the theatre , down a flight of some 29 stairs.

There is also no toilet on the second floor for theatre attendees and access for the disabled to the nearest toilet on the first floor is by a solitary lift, as the escalators only services ground to first floor. This small lift has to service all floors for wheelchairs, together with prams and service trolleys and is consequently very slow.

Is the cost of another escalator, or more lifts, an unjustifiable expense in the overall cost of such a building?

The Act should be amended to provide for the drafting of standards which ensure these problems are avoided in the future.

(b) The concept of “Unjustifiable Hardship” is a convenient “out” for some builders and/or owners of public premises and has no limitations, according to my reading of the Act.

It is recommended that the spending on disabled access be prescribed by the Act, or by Regulations under the Act, as a percentage of any new building cost, or the cost of any refurbishment to an existing building.

(c) Railway “crib crossings” have proved to be a death trap for some unfortunate disabled people.

Australian Standard AS 1742.7 sets guidelines for rail pedestrian and level crossings. The Victorian Level Crossing Protection Upgrade Project is cognisant of including facilities for the disabled. Sinclair Knight Merz, (SKM), and SCOPEVic are conducting research to enable better crossings to be built. SKM has produced reports summarising its work on this project to date. Of particular interest is the Pedestrian Crossing Survey Results on pp 7 and 8 of the report: “Pedestrian Crossing Review, Disabled Person Access”, Department of Infrastructure (Victoria), Sinclair Knight Merz, March 2001. For example, the survey identified:

- that a number of existing crossings had not been constructed to standard;
- wheelchair-bound people have impaired line of sight due to the construction of the crossing; and
- 12% of crossings inspected had flangeway groove widths greater than the prescribed 70 mm.

After two fatalities and a few near misses on Victorian level crossings these problems need addressing:

(i) Standards for crossings only work when there are standard dimensions for wheelchairs. Australian Standard AS 1428.2, “Design for Access and Mobility”, sets out a typical wheelchair layout, dimensions and circulation allowance, however it is not mandatory to construct wheelchairs to this standard. This is appropriate because disabled people do not come in standard sizes and most wheelchairs are custom built to suit the specific ergonomic requirements of the owner. An alternative solution to matching crossing design with wheelchair design must be found.

(ii) Broken edges on the “flange gap” are always a trap for wheels of wheelchairs, walking sticks and other mobility aids. Research is being done on the most appropriate treatment for the flange gap. In the USA \$US 1.2 million is being spent over four years to fully solve this problem. At the moment the most suitable treatment appears to be rubber compound surfaces which give a sharp edge to the gap and less deterioration under stress, but it does not actually resolve the problem.

(iii) The level of understanding and coordination of drivers of motorised chairs may need to be addressed for their own protection before allowing them access to public roads without assistance from a carer. Although this may be seen as a retrograde step in this age of anti-discrimination there may be no better way to protect some severely disabled people from the hazards which present at rail crossings and other similar dangerous traffic situations .

4. MEASUREMENT OF DISCRIMINATION

There will always be some dissatisfaction in the disabled community no matter what is done. This dissatisfaction will be difficult to measure as is the level of satisfaction. A section of carefully worded questions in the normal ABS Census form, to be answered by someone who is disabled, (or their carer), may address this issue.

5. CONCLUSION

In conclusion I would suggest the following:

- (a) People of all abilities should have equal access to all public buildings and transport.

(b) Railway crossings could be made safe for all users by having “straight-through” access, protected by electrically operated boom gates, synchronised with vehicular boom gates. This would cater for all sizes of wheelchairs, as well as adults with prams. It would also minimise the risks associated with “flange gap” edge failure.

(c) An Australian standard for motorised wheelchairs must be based on ergonomic safety and manufacturers mandated to comply with such a standard.

(d) For the protection of all, a very simple licence test should be introduced for drivers of motorised wheelchairs, based on the driver’s coordination skills, mobility level and cognitive ability.

The disadvantage of a disability is not ever overcome by an act of parliament. The Disability Discrimination Act has done great things for the community as a whole. I do hope we continue to show respect and care for all in the community, not just the disabled

Kaerest T Houston

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