Disability rights, discrimination and the law

Summary

- Whenever you start to use a disability service, you must be given information that explains your rights. The information must be explained to you in person and writing.
- The Disability Act 2006 protects the rights and needs of people with disabilities.
- It is against the law in Victoria for someone to discriminate against you because of your disability.
- If you feel that your human rights have been violated or that you have been discriminated against, you have the right to make a complaint.
- The Disability Services Commissioner works with people with a disability and disability service providers to resolve complaints.

People with a disability are protected by the same laws as everyone else. You have fundamental human rights like freedom, respect, equality and dignity. You have the right to live to your full potential, to exercise control over your own life and to live free from abuse or neglect.

There are also specific laws in place that protect the rights of people with disabilities. If you feel that your human rights have been violated, or that you have been discriminated against, you have the right to make a complaint. There is support available for you if you need advice, information or help with legal representation.

The Disability Act

The Disability Act 2006 protects the rights and needs of people with disabilities as well as strengthening the disability services that are provided for them.

Your rights and the Disability Act

You have a number of rights under the Disability Act:

- You must be given information that explains your rights whenever you start to use a disability service. The information must be explained to you in person and writing. You have the right to request services from a disability service provider. If the disability service provider does not believe you have a disability and your request is refused, you can ask the Secretary of the Department of Health & Human Services to make a decision regarding your disability. If the Secretary decides that you do not have a disability, you can ask the Victorian and Civil Administrative Tribunal (VCAT) to review the decision.
- You have the right to direct your own disability care plan and it should be tailored to you and recognise your family and carers. Your plans should be reviewed and help with planning is recognised in the Act.
- If you use residential services, you have rights and responsibilities. You have the right to safety, respect, privacy and free access, as well as the right to make a complaint without retribution. You have responsibilities too. You need to make sure your rent is paid on time and make sure that you do not do anything illegal or behave in a way that will put you or another person in danger.
- If you live in a group home and are asked to move, you can ask VCAT to review the decision.
- Generally, disability service providers do not manage money on your behalf. In the special circumstance that they do, it will only be for small amounts and the disability service provider must comply with the strict rules that govern how they manage your money. You can ask the service provider to return your money at any time and they must provide you with regular account statements for as long as they manage that money.
- You have the right to receive visitors from the Community Visitors program. Community visitors are volunteers who may visit accommodation facilities for Victorian people with disabilities or mental illness at any time. They monitor and report on the adequacy of services provided, in the interests of residents and patients. The Office of the Public Advocate provides this service.
Making a discrimination complaint

If you feel that your rights have been violated or that you have been discriminated against, you have the right to make a complaint. Disability health service providers must have a clear process for managing complaints and they must make sure people know how to make a complaint. They also report to the Disability Services Commissioner annually about the number of complaints they have received.

The Disability Services Commissioner works with people with a disability and disability service providers to resolve complaints. You can contact the Commissioner on 1800 677 342 for further information.

The Victorian Civil and Administrative Tribunal (VCAT) can review some decisions made for and on behalf of people with a disability. VCAT can:

- review decisions by the Secretary to the Department of Health & Human Services to admit a person with an intellectual disability to a residential institution
- review decisions about ‘restrictive interventions’ (the restraint or seclusion of a person with a disability)
- make orders about residential treatment facilities, including a resident’s treatment plans and leave of absence
- make orders about ‘security residents’ (persons with intellectual disability transferred from prison to another facility), including a security resident’s treatment plans and leave of absence
- make and review supervised treatment orders for persons with an intellectual disability if they are satisfied that, among other things, the person must be detained to prevent serious harm to another person.

Discrimination and the Victorian Equal Opportunity Act 2010

It is against the law in Victoria for someone to discriminate against you because of your disability. Discrimination is when someone disadvantages you or treats you in a negative way because of a personal characteristic. Discrimination is against the law when it occurs in public places like schools, shops and the workplace.

Inclusive schools and workplaces

Sometimes employers, educators, workplaces and service providers are required to make changes so that a person with a disability can attend school, do their job or access goods and services. These changes, called ‘reasonable adjustments’, make the workplace or school more inclusive. These adjustments may mean a change in working hours or they may require certain equipment or a structural change to the actual workplace.

Where to go for help if you think you are being discriminated against

If you feel like you have been discriminated against, you can make a complaint to the Victorian Equal Opportunity and Human Rights Commission.

The Charter of Human Rights and Responsibilities Act 2006

The Charter of Human Rights and Responsibilities Act 2006 is a Victorian law that defines the human rights, freedoms and responsibilities of all people in Victoria. The Charter applies to Victorian Government, local councils and other publicly funded bodies such as health service providers. They are required to act under these human rights and to consider them when they make decisions.

Where to go if your human rights have been breached

If you think your human rights have been breached by a public authority, you should try to raise it with the authority first. If you cannot resolve the matter, you may be able to make a complaint to the Victorian Ombudsman. You can contact The Victorian Ombudsman for more information on (03) 9613 6222.

Disability legal services and support

Legal services can help you with issues relating to your rights, disability discrimination and equal opportunity. If you have a complaint about an organisation or service provider, the first step will often be attempting to resolve the complaint directly with them. Even in this instance, some legal services can give you information, advice or advocacy support. Some legal services specialise in legal issues for people with a disability.

Disability Discrimination Legal Service Inc

This independent community legal centre specialises in disability discrimination. Call (03) 9654 8644 or 1300 882 872 (rural callers) or TTY (03) 9654 6817.
Villamanta Disability Rights Legal Service
Villamanta is a community Legal Centre that provides advice only on disability-related legal issues. Call the Centre on 1800 014 111.

Victorian Equal Opportunity and Human Rights Commission
The Victorian Equal Opportunity and Human Rights Commission provides a free telephone enquiry line and an impartial, no-cost complaint handling process for people who may have experienced discrimination. Call 1300 292 153 or (03) 9032 3583 for further information.

Office of the Public Advocate (OPA)
The Office of the Public Advocate provides last resort advocacy for people with a disability. Call the OPA on 1300 309 337.

General legal services and support
There are several other organisations that offer legal services and support to assist you.

Law Help Guide
The Law Help Guide is a directory of free and low-cost legal services, complaint or dispute settlement services and private lawyers. Call them on (03) 9604 8100 for further information.

Federation of Community Legal Centres
The Federation provides legal information, resources and contact details for Community Legal Centres in Victoria. Call 9652 1500.

Victoria Legal Aid (VLA)
Victoria Legal Aid provides free legal advice and can in some circumstances provide legal representation. Call 1300 792 387 or visit the Victoria Legal Aid website.

The Commission for Children and Young People
The Commission for Children and Young People can provide information and help to people with concerns about the safety and wellbeing of children and young people. Call the Commission on 1300 782 978.

Where to get help
Disability Services Commissioner, call 1800 677 342
Victorian Ombudsman, call (03) 9613 6222
Victorian and Civil Administrative Tribunal (VCAT)
Victorian Equal Opportunity and Human Rights Commission
Office of the Public Advocate
Victoria Legal Aid, call 1300 792 387