



18 March 2024

Anti-Discrimination Act Review
Strategic Policy and Legislation, Justice Policy and Reform
Department of Justice and Attorney-General
GPO Box 149
BRISBANE QLD 4001

QDN Submission to the Queensland Anti-Discrimination Bill 2024 (Exposure Draft)

Queenslanders with Disability Network (QDN) is an organisation of, for, and with people with disability. QDN operates a state-wide network of over 2,000 members and supporters who provide information, feedback and views from a consumer perspective to inform systemic disability policy and disability advocacy. This submission is informed by the lived experience of our members, all of whom have disability.

QDN welcomes the opportunity to make the following submission to this important legislation. QDN has had a long history of promoting, protecting and advancing the human rights of people with disability in Queensland. QDN believes it is important to thoroughly cross-reference this exposure draft with the Final Report of the Disability Royal Commission (DRC) to ensure any issues of violence, abuse, exploitation or neglect that may arise from discrimination or discriminatory practices have been captured and addressed in this exposure draft.

QDN was a member of the advisory group convened by the Queensland Human Rights Commission as part of the work undertaken to review the Anti-Discrimination Act 1991 and QDN members participated in focus groups to input into the review.

QDN commends the Department of Justice and Attorney General for engaging with people with disability, their carers and families in forming this exposure draft and welcomes the following:

- The shift from reactive to proactive with the introduction of positive duty
- Inclusion of intersectionality for people with more than one protective attribute
- Affirmative measures expressed as a central concept recognising that to achieve equality we need to take affirmative action
- Clearer tests for direct and indirect discrimination
- Attributes extended to include homelessness, domestic and family violence, physical features and family, carer and kinship responsibilities, and immigration/migration status
- Retention of the existing framework for sexual harassment

- Expanded coverage for vilification including to disability, age and sex. QDN notes this covers DRC Recommendations 4.29 Offensive behaviour and 4.30 Vilification because of disability
- Longer timeframe to make a complaint
- Provision requiring the Queensland Human Rights Commission (QHRC) to support people put their complaints in writing.

In this submission QDN would like to draw the Department's attention to the following points:

Schedule 1 Dictionary - Definition of disability

QDN agrees with the updated definition of disability to modernise some of the terms and align more closely to the Disability Discrimination Act definition.

Clause 6 - Support person, assistance animals, and disability aids

QDN agrees with the definition of support person, assistance animals and disability aids.

QDN members living in regional and remote areas report a lack of training services for their assistance animals. There is an urgent need for an increase in training services in regional and remote Queensland and for nationally consistent training of assistance animals.

QDN members express concern that whilst the Draft Bill does not propose evidence of training be provided, people with disability will nonetheless be asked for evidence in business and community settings. As mentioned above, there are barriers for many in obtaining that evidence. QDN strongly recommends communication and awareness raising initiatives co-designed with people with disability who require assistance animals targeted at communities, business and Government as a proactive measure to prevent discrimination (refer also to Implementation recommendations below).

Clause 12 - Reasonable accommodations

QDN welcomes the addition of reasonable accommodations however QDN members identify the proposed approach is too complicated and may cause additional barriers for people with disability. The eight factors as a legal test for determining whether an accommodation is reasonable is too complex and may deter people making a complaint. Reducing complexity would also reduce legal fees which are already causing a significant barrier for people with disability in taking legal action.

QDN also recommends reviewing DRC Recommendation 4.25 regarding removal of the word 'reasonable' from the Disability Discrimination Act. We support the DRC's explanation on this: "The focus would then be on whether there has been a refusal to make an adjustment, and if

so, whether making the adjustment would impose unjustifiable hardship on the respondent”. Therefore, we recommend the Department consider the legal impact of removing the word ‘reasonable’ from the term ‘reasonable accommodation’ throughout the Draft Bill.

DRC Recommendation 4.32 Unjustifiable hardship also places an obligation on the person relying on unjustifiable hardship to create and retain documentation of their decision and provide reasons if requested.

Implementation recommendations

Barriers around making complaints

QDN members have spoken to us about barriers around making a complaint and fear of possible retribution and losing essential services due to the inherent power imbalances. QDN strongly asserts that processes need to be easy to understand, accessible to people and support needs to be readily available for people seeking assistance to understand the process and meet the requirements they need to make a complaint. Supported decision making processes should also be adopted as a necessary support that ensures people have the right and capacity to engage in decision making as recognised in the United Nations Convention on the Rights of People with Disability.

QDN acknowledges the intention of this legislation and its implementation is for there to be less reliance on complaints and litigation, however there will continue to be complaints. QDN recommends the QHRC work with people with disability in the codesign of their processes to make them more user friendly and accessible to the people that need to use them.

QDN members also report the barriers in cost of seeing a complaint through as many people cannot afford expensive lawyers and many people do not qualify for Legal Aid. QDN recommends increased funding for community legal centres, individual advocacy and systemic advocacy to provide people with disability appropriate legal and advocacy supports in making complaints.

Awareness raising and education

QDN is aware that people with disability face discrimination every day of their lives across every aspect of their lives, from finding a place to call home, participating in community like going out for a meal through to meaningful employment or an education. QDN members tell us discrimination against people with disability happens everywhere.

QDN strongly recommends investment in awareness raising and education that is co-designed with people with disability, targeted at Government, business and the wider community and communicates what discrimination looks like in all settings. Education is also needed for people



with disability to be able to understand their rights, discrimination and steps they cant take to make a complaint and where they can get support. Practical examples of what discrimination looks like is critical to the implementation of this legislation and is lacking in the Draft Bill.

Thank you for this opportunity to submit this submission. QDN looks forward to further involvement in the work of the Department of Justice and Attorney General and of the QHRC generally. Please contact QDN on 32528566 if you would like to discuss our submission further.

Yours sincerely

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