



Sussex Street Community Law Service Inc

29 Sussex Street EAST VICTORIA PARK WA 6101
Postal Address: Locked Bag 2 EAST VICTORIA PARK WA 6981
ABN: 94 676 872 055

5/8/19
E-MAILED

Contact: [REDACTED]

[REDACTED]
Senior Legislation Officer
Department of Local Government, Sport and Cultural Industries
140 William Street
Perth WA 6000

5 August 2019

(by email and post)

Dear [REDACTED]

Law Reform Submissions

We refer to the above and thank you for the opportunity to provide submissions in relation to the *Dog Amendment Act 2013 (WA)*.

The Disability Discrimination Unit based at Sussex Street Community Law Service (Inc) in East Victoria Park is a not-for-profit state wide organisation. We provide legal advice, representation to community members who are vulnerable, low social economic and have disability.

Submission in Collaboration with [REDACTED] Accredited Instructor for Seeing Eye Dogs and Wagamuffins Dog Training

Our service has recently produced a Disability Discrimination film which includes assistance dogs and the law in Western Australia. We were pleased to secure the expertise of Mrs Kay Whiteley (WA Local Government Accredited Assessor) in making the Assistance Dog section of the film. Although Kay is not an employee of our service, we have utilised her skills and knowledge to submit this submission together.

Complaints re Assistance Dogs

Our service has acted in many cases where a person with a disability and who is accompanied by an assistance dog has been denied access to premises, vehicles (includes public transport) and facilities.

Commonwealth v State Legislation

Unfortunately at the time of this submission only the *Disability Discrimination Act 1992 (Cth) (DDA)* (s9) accommodates and addresses assistance animals complaints via the Australian Human Rights Commission in Sydney NSW).

The *Equal Opportunity Act 1984 (WA)* only defines and accommodates for Guide and Hearing dogs complaints.

We put forward our proposal for amending the *Dog Amendment Act 2013 (WA)* (Act) as follows:

Section 8 needs to be reviewed and amended:

- Under s8 (2) (a) and (b) if a person who is accompanied by an assistance dog either accredited or with a trainer and is refused access to any building place or public transport, there is no remedy under this section in the legislation. The complainant only has the option to lodge a complaint under the DDA. It would be better to include a section where the complainant can seek punishment (fine against the respondent) and/or compensation.
- When making any application under the Act in the State Administrative Tribunal (**SAT**) section 8 is not available.
- Not all complainants wish to follow the AHRC complaint process since if the complaint does not resolve at a case conference then the only pathway is the Federal Court which is a costs jurisdiction if the complainant is unsuccessful.
- The whole section 8 needs to be expanded into perhaps a separate Act e.g. *Guide, Hearing and Assistance Dogs Act 2009* (Qld). We do note that some air carriers will also not recognise a dog that is individually trained under WA or by some organisations unless they are trained and registered in Queensland. Furthermore the DDA s9 (2) (c) (i) and (ii) is very broad and the word trained has in our opinion being misconstrued.

Assistance dog training in WA

- Our understanding is an Assistance dog can be trained either by a recognised organisation (noting in your information they are: Guide, Seeing Eye dogs, Assistance Dog Australia and Lions Hearing organisation); or
- By an individual.

Proposal

- Any assistance dog in training outside an approved organisation or by an individual must be registered with the Department of Local government, Sport and Cultural Industries (**Department**) that the assistance dog is in training and has Identification to demonstrate this. It is very easy to purchase a dog training jacket and call the family pet an assistance dog. However, we do not wish to make the process onerous for the person with a disability or expensive as all our clients are of little means.
- Further to the above dogs in training must undertake a temperament test to ensure the dog is a suitable candidate to be an Assistance dog. The test can be taken at 7 weeks of age and repeated 3 monthly until the dog is fully accredited as an Assistance dog.
- If an organisation is not on your approved list of accredited trainers and wish to be added then they must apply to the Department for accreditation. We understand that some organisations are not credible and we have experienced our clients being given incorrect information on assistance dogs and the law.

Our service and [REDACTED] would be pleased to meet and discuss our proposal with you in person. We are contactable by [REDACTED]

[REDACTED]

Yours sincerely



Michèle Hardisty Munday

Solicitor
Disability Discrimination Unit - Statewide

Kay Whitely

Accredited Assistance Dog Instructor and Assessor