

4. Address concerns about inappropriate complaints by making discrimination law tests simpler;
5. Increase funding for the ADB to help strengthen public education around discrimination and provide a more effective preventative strategy; and
6. Conduct further consultation on how to improve discrimination processes and accessibility for people with cognitive disabilities with relevant peak bodies such as the Council for Intellectual Disability.

About Kingsford Legal Centre

Discrimination law is fundamentally about human rights and implements international human rights treaties to which Australia is a party. These include the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities.

Given that the purpose of discrimination law is to protect human rights, there should be a beneficial approach to discrimination law that maximises access to justice. Proposals to limit access should be closely scrutinised and not lightly adopted.

+ X G D ¶ V **Discrimination law ensuring inclusion**

Huda was a member of her local club, which she regularly attended – it was a big part of her social life and gave important structure to her week. One afternoon at the club, another patron made disparaging comments to Huda, including comments about her disability. Huda was very upset and reacted to the comments, which resulted in the club deciding to cancel her membership and ban her from returning to the club.

Huda made a written complaint to the ADB, but did not give enough detail about her disability and what happened at the club. She then came to KLC and we helped her by adding relevant details to her complaint and clarifying what happened. One of our solicitors also attended a conciliation with Huda. We were able to negotiate with the club to have the ban lifted so that Huda was able to rejoin as a member and continue to attend. Huda was very pleased with the outcome and is now a member of her local club again.

Schedule 1[1]: Complaints made on behalf of others

Advising complainants of their right to have their complaint referred to the NSW Civil and Administrative Tribunal (**NCAT**) plays an important role in helping complainants to understand their rights and facilitating access to justice. When a complaint is made on behalf of another person and the President declines the complaint, section 87B(4) of the Act should continue to require that the President inform the complainant in writing of the

extensive or a significant drain on resources, the more common scenario is the one in which the complainant is completely bamboozled as to the best avenue for their complaint.

A blanket prohibition on complaints being made in more than one jurisdiction would form a barrier to complaints coming before the most appropriate decision-maker for resolution and restrict access to justice, especially for vulnerable people. It is important to remember that international human right principles underpin all discrimination law and as a result there should be a beneficial approach to legislation that enables people to protect their rights. In light of these important human rights considerations, there are more appropriate ways of directing complaints to the most appropriate jurisdiction. The NSW Government should start a collaborative process with other jurisdictions to set up a consistent national framework for discrimination protection. The Council of Attorneys-General could be an appropriate forum for starting such a collaborative process. The NSW Government should also guarantee increased funding to the legal assistance sector generally and specialist discrimination law services specifically to increase the number of people who are able to get specialist discrimination law help and to minimise misguidance.

reverse onus once the complainant has been made for the respondent to rebut the allegation. The Bill will further exacerbate the information imbalance when it comes to discrimination law complaints, in that the complainant often does not have access to all the relevant material at the time of the complaint despite their best endeavours.

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Lyra successfully interviewed for a position as a support worker with a community organisation. When the employer gave Lyra the contract of employment, Lyra told the employer that she had been diagnosed with a mental illness. The employer then refused to offer Lyra the job, but did not provide a reason. Lyra made a complaint to the ADB that she had been discriminated against on the ground of disability.

We attended a conciliation with Lyra at the ADB, where Lyra was able to ask more questions about why she was not given the job within a confidential conciliation setting. The complaint eventually settled, and the community organisation gave Lyra a written apology and monetary compensation. The community organisation also agreed to review their training and recruitment processes to enhance anti-discrimination.

Proposed sections 89B(2)(h) and (i)

The proposed section 89B(2)(h) would require the President to decline a complaint without an investigation if subject-matter of the complaint has been dealt with by the . The proposed section 89B(2)(i) would require the President to decline a complaint without an investigation if nion that the subject

Proposed section 89B(2)(I)

The proposed section 89B(2)(I) would require the President to decline a complaint without an investigation if

the Council for Intellectual Disability. It is certainly the case that legal services for people with intellectual disability as complainants or respondents are extremely limited.

Schedules 1[5] and [9]: Complaints that are frivolous, vexatious, misconceived or lacking in substance

Sections 89B and 92 of the Act already provide sufficient mechanisms for the President to decline complaints that are frivolous, vexatious, misconceived or lacking in substance. It is unclear how Schedules 1[5] and [9] would change how discrimination works in a practical sense, except to increase the -3(lreW*nBT/F2 9.96 Tf(s)-5()-3(r)-3)5(m)-9(q0.000008871 09.96

cases in the Supreme Court (SCOW). This is a consequence of the

inaccessibility of some jurisdictions.

arbitrary complaints would not seek judicial review, or would

Many vulnerable people with

because they do not pass the complex legal tests for judicial review or are deterred by

As it stands, the process of

don't have to go through the

the Supreme Court is a costs jurisdiction, further increasing the inaccessibility of

discrimination law where needs to be filled by remedies in generally no costs

jurisdictions.

Conclusion

and how to appropriately protect people from discrimination in 2020 are beyond