

DISABILITY DISCRIMINATION COMPLAINT
ACCESS TO SHORT-TERM ACCOMMODATION
BY PEOPLE WHO ARE HEARING IMPAIRED OR DEAF

To: President
Human Rights and Equal Opportunity Commission
GPO Box 5218 Sydney 1042

Attention: Director, Complaint Handling

On behalf of the hearing impaired and Deaf people named in Attachment A, (insert name of organisation lodging complaint) wishes to make a complaint under the Disability Discrimination Act about the lack of provision, by ABCD Hotel, (insert address of hotel) of facilities for guests who are hearing impaired or Deaf to access a range of services intended for the use of guests. The hotel has discriminated against the people named in the Attachment. It advised that it was not able to provide facilities necessary for each of the complainants.

Lack of various facilities in short-term accommodation establishments such as the ABCD Hotel means that people who are hearing impaired or Deaf do not have equally effective access as other guests to:

- Television services
- Telephone services
- Safety in emergency situations
- Hearing augmentation in function and meeting room facilities

To clarify the access issues:

- People who are hearing impaired or Deaf cannot properly use television sets in short-term accommodation unless captioning access facilities are provided.
- People who are hearing impaired or Deaf cannot use telephone services in short-term accommodation unless voice telephones with volume control and data telephones (TTYs) are provided.
- People who, because they are hearing impaired or Deaf, are unable to hear emergency warning sounds have their safety jeopardised unless alternative means are in place to alert them to danger.
- People who are hearing impaired and need to access an assistive listening system to hear speakers at a function or meeting are disadvantaged if such systems are not available, and are discriminated against if a public address system is provided for the benefit of hearing people in such a situation.

People who are hearing impaired or Deaf would like to be able to have the same access to facilities in short-term accommodation establishments as do hearing people, in part because they pay the same amount as hearing guests do to use the facilities of the establishments.

Many people who are hearing impaired or Deaf are aggrieved by this lack of access in the same way as a person with a physical disability is aggrieved by being unable to access bathrooms, function rooms and other physical features of short-term accommodation establishments.

Discrimination

By not providing the same level of access in the areas listed in the above dot points, and by failing to ensure the provision of alternatives that are available, the operators of the ABCD Hotel are discriminating in the terms and conditions on which they provide their services, which is unlawful under section 24 of the Disability Discrimination Act.

Lack of equivalent access facilities for people who are hearing impaired or Deaf involves discrimination as defined under section 6 of the Disability Discrimination Act:

A requirement or condition is imposed: By not providing or ensuring access to such facilities as TVs, telephones and safety procedures, the operators of the ABCD Hotel are requiring people who are hearing impaired or Deaf to comply with a requirement or condition of being able to hear in order to have the full benefit of their services.

Specific individual complainants cannot comply with it. People who are hearing impaired or Deaf cannot comply with requirement or condition of being able to hear because of their disability.

It has a discriminatory impact. People do not have a hearing impairment or who are not Deaf are substantially more able to comply with this requirement than people who do have a hearing impairment or are Deaf - although it is noted that, in some situations, people without a hearing impairment can also benefit from such facilities and services as captions, volume controlled telephones, data telephones (TTYs) and emergency evacuation procedures.

The requirement is not reasonable: The requirement of being able to hear to benefit from the various facilities and services identified previously is not reasonable for the purposes of the Disability Discrimination Act, because

- Substantial numbers of Australians have a significant hearing impairment or are Deaf. This affects their ability to hear audio elements of television programs, warning systems, conversations via voice telephones without volume control, and (in the case of some) affects their ability to communicate at all via voice telephones.
- “Reasonableness” must be interpreted consistently with the objects of the Act.
- Technology exists enabling the provision of the identified facilities and services in alternative ways.
- Technology exists that allows viewers to see captions if they choose without imposing them on viewers who may not wish to see captions, so there is no disadvantage to hearing clients.
- Technology exists that allows users to choose between operating a telephone as a voice or data telephone.

We believe that providing the necessary access facilities for hearing impaired and Deaf clients would not impose unjustifiable hardship on the ABCD Hotel, although we accept that providing the facilities in respect of every part of the establishment may take some time.

Furthermore, the Hotel Motel and Accommodation Association (HMAA) has adopted a Code of Practice for the provision of facilities for the deaf and hearing impaired.

That demonstrates clearly that the industry agrees with the need to provide necessary access facilities for hearing impaired and Deaf clients.

Remedy

We would be prepared to withdraw this complaint against the ABCD Hotel in exchange for a commitment by the hotel to implement the HMAA Code of Practice for the provision of facilities for the deaf and hearing impaired within a reasonable timeframe.

Representation:

The people named in this complaint have advised that they wish their interests for the purposes of this complaint to be represented by (insert name of organisation lodging complaint). Please direct correspondence in this matter to the undersigned.

Confidentiality

We wish the Commission to treat the names and personal details of the individuals named in this complaint confidentially (although we understand that the operators of the ABCD Hotel are entitled to know who is complaining against them).

Optional paragraph:

Public inquiry process

We do not wish the substance of this complaint to be confidential, however we request that the Commission investigate this complaint and possible solutions to it by a public process to allow everyone with an interest in the matter to participate. We intend to make public the fact that this complaint has been lodged.

Signed:

Date:

Name:

Address:

Telephone:

Fax:

E-mail: