



Anti-Discrimination Act 1991 (Qld)



Approved providers, service supervisors and management, and educators of early childhood education and care (ECEC) services have a responsibility to ensure that they meet their legal obligations. In Queensland, this includes meeting the requirements of the [Anti-Discrimination Act 1991](#).

National and state legislation

Both the Australian and Queensland governments have created legislation that makes it unlawful to discriminate against people on the basis of their disability. At the national level, this is achieved through the *Disability Discrimination Act 1992* (Cwlth). In Queensland, the relevant legislation is the *Anti-Discrimination Act 1991* (Qld).

The existence of separate legislation at national and state levels means that a person making a complaint about discrimination can generally choose the jurisdiction (national or state) under which to make a complaint.

However, businesses and organisations must ensure that they comply with both national and state legislation.

What is the Anti-Discrimination Act 1991 (Queensland)?

The Anti-Discrimination Act 1991 (Qld) was passed by the Queensland Parliament in December 1991. The purpose of the Act is to promote equality of opportunity for everyone by protecting them from unfair discrimination in certain areas of activity, including work, education and accommodation.

The role of the Anti-Discrimination Act 1991 (Qld) is to 'extend the Commonwealth legislation' and ensure that the anti-discrimination law is applied consistently throughout the state and is fully enforceable by the courts.

In contrast to the Commonwealth Disability Discrimination Act 1992 (DDA), which focuses specifically on disability discrimination, the Queensland's Anti-Discrimination Act 1991 addresses discrimination across a range of areas. The Act prohibits direct and indirect discrimination, harassment, victimisation and vilification on the basis of a variety of attributes, such as: sex, relationship status, pregnancy, parental status, breastfeeding, age, race, impairment, religious belief or religious activity, political belief or activity, trade union activity, lawful sexual activity, gender identity, sexuality, family responsibilities, and association with, or relation to, a person identified on the basis of any of these attributes.

The Queensland Anti-Discrimination Act focuses on eliminating discrimination in work, education, the provision of goods and services, and accommodation.

What does the Act say about disability discrimination?

In relation to the rights of people (including children) with disability, the Act makes it unlawful to discriminate against a person on the grounds of 'impairment'. The Act defines 'impairment' as:

- the total or partial loss of the person's bodily functions, including the loss of a part of the person's body

- the malfunction, malformation or disfigurement of a part of the person's body
- a condition or malfunction that results in the person learning more slowly than a person without the condition or malfunction
- a condition, illness or disease that impairs a person's thought processes, perception of reality, emotions or judgment that results in disturbed behaviour
- the presence in the body of organisms capable of causing illness or disease
- reliance on a guide, hearing or assistance dog, wheelchair or other remedial device.

The Act also makes it unlawful to discriminate against a person (including a child) on the basis of their impairment stemming from:

- an illness, disease or injury
- a condition at birth.

This applies whether the impairment currently exists, or whether it existed previously.

What does the Act mean for ECEC services?

The Queensland Anti-Discrimination Act recognises that discrimination can occur directly or indirectly. Direct discrimination is when someone is treated differently on the basis of their attributes or life circumstances as defined under the Act. Indirect discrimination is when policies or practices disadvantage, or make services less accessible to, certain groups of people as defined under the Act. The Act requires ECEC services to make 'reasonable' adjustments to programs, policies and procedures to avoid direct or indirect discrimination.

The Queensland Anti-Discrimination Act provides exemptions where adjustments to services or facilities may impose 'unjustifiable hardship' to an organisation. When determining whether necessary adjustments may cause unjustifiable hardship, an ECEC service must consider all of the relevant circumstances, including the:

- type of special services or facilities required
- cost of supplying these special services or facilities and the number of people who would benefit or be disadvantaged
- financial circumstances of the child and their family
- disruption that supplying special services or facilities may cause
- nature of any benefit or detriment to all people concerned (Anti-Discrimination Act 1991).

The Queensland Human Rights Commission

The Queensland Human Rights Commission (QHRC) has the legislative responsibility for the Queensland Anti-Discrimination Act. Its role is to promote community understanding of human rights, including disability rights. To achieve this, the QHRC provides training, information and resources, and it also receives, investigates and resolves complaints through a conciliation process. Matters that cannot be resolved through conciliation can be referred to the Queensland Civil and Administrative Tribunal (QCAT).



Photo: Welcome to the Fold

Practical steps to compliance

The QHRC highlights practical steps that approved providers, service supervisors and management, and educators at ECEC services can take to prevent discrimination. These include:

- creating and maintaining clear policies that promote equality of opportunity for all, including staff and the people—children and families—who use the service
- ensuring promotion, implementation and support for these policies and ongoing review of their effectiveness
- providing ongoing training of new and existing staff on the policies
- providing fair, transparent, quick, simple and effective internal complaints mechanisms to address any breaches of the policies

- appointing a staff member to fulfil a role as Equity Contact Officer, to provide confidential and impartial information to staff and families about the policies and complaint processes.¹

Where to find more information

You can access a range of resources on how to prevent discrimination from the [QHRC website](#). This includes specific information on [impairment discrimination](#).

The ADCQ also provides an [employer's toolkit](#) to build an inclusive workplace.



Photo: Lime

How to unpack relevant legislation

Approved providers, service supervisors and management, and educators of early childhood education and care (ECEC) services are required to comply with a range of state and federal laws and regulations. To help you 'unpack' the relevant legislation, try asking these key questions:

- What are the goals of the legislation—what is it trying to achieve for individuals and the wider community?
- What are the responsibilities of the ECEC service's management team?
- What are the responsibilities of individual members of the governing body?
- What responsibilities can be delegated to the ECEC service's officers, such as the Nominated Supervisor and the management team?
- What measures, such as plans, policies and procedures, need to be in place to enable the ECEC service as a whole to meet its legal obligations under the relevant Act or regulation?

It is also important to keep abreast of changes to legislation that may occur from time to time. You can download a copy of the current legislation from [Queensland Legislation website](#)

The government department or statutory authority that is responsible for oversight of the legislation also provides resources, such as plain English guides and fact sheets, to help you better understand the requirements of the legislation. You can find some [here](#).

References

[Anti-Discrimination Act 1991](#) (page 16).

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