

# **SUBMISSION TO THE SENATE LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE**

## **Inquiry into the Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008**

I support all the main changes proposed for this bill, with the exception of the change not requiring dogs to be on leads. My submission is in regards to assistance animals, and while I support the changes, I do not feel that they are going far enough and hence I propose additional changes which also need to be in place in both the act, and any specific regulations or standards which may subsequently be developed under the act.

While the decision made by the full court in Forest (2008) has had some horrible consequences for all uses of assistance animals, one needs to remember that the whole reason the dogs were refused access was because of the dog's behaviour, namely they were barking, growling, lunging and had an open wound which was seeping. There was no evidence presented to the court to say that the dogs were trained at the time of the alleged dispute, but rather the evidence of the dogs training was of the dogs having sat a public access test some two years after the access refusals took place. Hence it needs to be made clear that the dogs must be trained, and not be in training in order to be covered under the act. To a degree guide dogs in training are covered under some state legislation, but no guide dog program would take legal action against a place of public accommodation on the basis of them not allowing their puppies into places, and if their puppies behaved as those dogs did, then I would also assume that the individual dog would be removed from the puppy raiser immediately. Yes, it is true that dogs in training do need some form of access to public places, but this does not need to be unlimited access, and should not be causing undue hardship to places of business, which is very much what the view of the community is of the dogs in Forest case. How someone can be found to have discriminated against someone for not allowing a dog in training into a public place, is something which really has to be corrected. If this is to be the case, then people can technically take around any dog at all, no matter what its behaviour, on the basis that it is in training. We all see guide dog puppies in training in public places every single day and yet, I have never seen one lunging, barking, growling, fighting, etc. I am yet to see how such behaviour could be seen as that of an immature puppy, when in reality it is a sign of a dog which does not have a temperament needed to be in a public place. Temperament is the most important aspect of any dog being in public and hence I feel that the legislation should state the dog has a temperament and behaviour suited to being in a public place, and not just the behaviour. Any dog can be trained to behave appropriately at some time, but it is the temperament that is most likely to ensure that the dog is comfortable in such places, and that as much as possible is not a bite risk to the rest of the community.

I do not believe that the aim of the assistance animals in the Disability Discrimination Act 1992, was to provide special privileges to the disabled, by allowing them to be accompanied by any animal at all no matter what, and yet this really appears to be the attitude of many people, and to a degree has also been the decision made by the courts. I do not feel that the majority of the population has a problem allowing access to guide dogs, or to dogs who have the same standards of temperament, behaviour and hygiene as guide dogs, and yet the standards of assistance dogs are rarely if ever to those standards. Assistance Dogs International do not have high standards, and in particular their public access test leaves a lot to be

desired. It is quite simply a basic obedience test done in a public place, and is something which most if not all guide dog puppies would be able to pass at only a few months of age. It in no way tests the ability of a dog to travel on public transport, or even to travel in a car, and yet these dogs have the right to do such things. Australia should not accept the standards of an American based organisation, but should instead set our own world class standards, to ensure that access disputes are kept to a minimum and that we can reassure businesses and the community, that when we say that you must allow these dogs it is done for a very very good reason, and not to make someone feel better.

The United States has now changed their laws to only allow dogs into places on the basis that the term animal has been taken way out of proportion, and no other animal has yet been able to meet the high standards which can be met by dogs. Within the US there are known and publicised cases of animals such as snakes, lizards, rats, ferrets, parrots, ducks, pigs, goats, cats, monkey's, and horses (including full sized ones) all being used as assistance animals. None of these animals have yet been able to be toilet trained to any real degree, and not in any way close to the standards by which guide dogs are trained. The guide horse program have been able to train them to the equivalent of a 2 year old child, who can tell a person I need to go now and give the person some 60 seconds or so to get them outside. Guide dogs toilet only on command and my own assistance dog has been able to hold in diarrhoea for over 4 hours. Guide horses defecate at least 20 times the amount of a dog of the same size, and do so every 2-3 hours. Guide dogs are able to fly in the passenger cabin of aircraft from one side of the world to other without going, and this is something which guide horses are incapable of doing. Guide horses cannot lie down for more than a few seconds, and cannot squeeze into tight spaces, etc, which is needed for any assistance animal. To say that a person will not ever need to catch a taxi, ride a bus, tram, peak hour train, etc in the 30-40 year relationship they would have with a guide horse is very naive. Peoples lives change, and since these animals are supposed to live in bans most of time, how can they accompany a person to work, etc. Guide dog handlers are taught to pick up after their dog, and yet a blind person would be unable to do so with a guide horse due to the amount they would be defecating and on city streets and the like. Who is going to clean this up, and how. It is not something that can be placed into a bag, like dog droppings, and it smells a lot more than dog droppings, especially those of guide dogs who are fed on super premium pet foods, and as such have dogs who defecate in very small amounts and whose droppings do not smell nearly as much of those of the average dog. Such things are not possible for horses. We also need to consider the welfare of the individual horses. A dog no longer has a natural environment, if anything it is the family living room. There is not a huge difference between a living room and a shopping centre, but there is between a paddock, bushland, etc which is the natural environment of the horse and a shopping centre. Dogs are now an integral part of human life and live with us, horses at most live alongside us, and we should not be forcing them to live in an environment on the basis that they may help someone, especially when it is not in their welfare to do so. The American Veterinary Medical Association is opposed the use of monkeys because of the health and safety risks which they pose. The Helping hands program in the US which does place monkeys does so for in-home use only.

Most of the population will at some stage have some form of sight impairment, does that mean that all of them should be entitled to have a dog in a public place as they may one day need it to be a guide dog because they do not want to use glasses. The law as it is written could very well allow this sort of thing, and given how broadly courts have assessed cases in regards to Sheehan and Forest, one has to ask how much more broadly we are going to allow it to be for the purposes of assistance animals. Yes people, who

need assistance with activities of daily living, should be covered by the law, but does the rest of the population also need to be covered, because they want to take 'Fido' everywhere with them.

There is no reason for any assistance dog to ever be off lead, and a dog off lead does not belong in a public place. Guide dogs are always on lead, and no reputable program would ever place a dog, who could not work on lead at all times. There are no tasks that would require a dog being off lead. You cannot get any form of basic obedience certificate for pet dogs without the dog being on lead. What this is going to do is to create a situation in which out of control dogs are off lead in public places on the basis that they are being trained!! The law needs to clearly state that dogs must be on lead at all times, and are not exempted from normal leash laws in the community. There is no such thing as a perfect dog, and to assume that a dog could be safe enough to be off lead as it would never ever make a mistake is very naive and incredibly ill informed. Leash laws have been put into place in this country for the benefit of both the dog and the safety of the community and assistance animals should not be exempted from them, on the misguided idea that they can be trained to work off lead. How can you train a dog to work off lead without it being off lead and being out of control at some stage during that training period.

I support the idea to specifically state that dogs accredited under a state scheme are covered, as are dogs from certain programs. I do feel that some requirement needs to be put on the dogs covered under the third point, in that dogs who have not been able to meet the requirements of their states assistance dog laws, through in appropriate temperament, training, etc are not covered under federal laws, which I have heard many individuals in the community claim. The only role for the third part is for dogs which are from states which do not yet have legislation in place, and which have not come from approved programs. The approved programs needs to be done very very carefully and should only be done after a very thorough evaluation of the program and their temperament testing process for the dogs, as well as follow up and training processes in place. There are some very poor programs in the community and some of them are managing to obtain some level of membership of ADI and while we hope that they will not be able to be accredited by ADI, a program in the US that places all dogs with both a head collar and a prong collar as the dogs are not able to be controlled by any other means as managed to obtain ADI accreditation. No dog in public should need to be worked on anything but a flat buckle collar, if an individual decides to work a dog with a head collar, correction chain, etc is there choice but it needs to be proven that the dog is capable of working without it on!! I know of two programs in Australia who payed and applied to be accredited by ADI over 12 months ago, and yet they have still heard nothing about when this will happen. There are programs in Australia of a high quality who will easily meet ADI accreditation standards if and when they are assessed, but to say that only one program has been accredited, is not because others have not attempted to be.

Public access rights for the disabled person accompanied by a working dog have been fought for years by guide dog programs and were not won on the basis of a person's right, but rather on the basis of the community's view of the high standards of the dog's temperaments, behaviour, hygiene, etc. Should these standards be lowered just because they are hard to achieve. Now that the guide dog community has won legislative and community acceptance does not mean that they have lowered their standards. In fact their standards continue to increase every single day, and rather than lowering the standards expected, legislation needs to be setting minimum standards which need to met by any dog in public places to ensure the safety and the welfare of the community at large. There will always be people who do not believe that their dog would ever bite, yet any expert on dogs is going to tell you otherwise. People whose

dogs do bite are often in denial about what really happened, etc. The standards put in place for any assistance dogs need to be of an incredibly high standard as these dogs are exposed to the highest level of stress imaginable and for the average dog it is not something that they should be expected to experience on a day to day basis. While it is true that dogs do want to be with their people, for most dogs that means doing dog things with them, not trampling through Chadstone shopping centre, and being squashed under seats on peak hour trains and buses, having their tail pulled by out of control children, being hit and kicked, etc. While these may sound like extreme situations very very few assistance dogs will never experience them at any time during their working lives, and we need to ensure that dogs in public places are able to cope with such things. There will always be people who are allergic to dogs and who are very fearful of dogs. While the rights of people with genuine assistance animals should not be denied these people do need to be considered in any laws that are designed. We need to ensure that these dogs are of the highest standard of health and hygiene to reduce hair shedding and saliva being on the hair and hence to reduce people's allergic reactions to such dogs. We need to ensure that the community only sees highly trained and obedient dogs able to cope with all that life throws at them so the community has no reason to fear them.

Research by Paws with a Cause in the US has shown that less than one percent of dogs have the temperament suited to being in a public place. It is for this reason that guide dog programs have their own breeding programs, and while hearing dog programs throughout the world have been attempting for the last 30 years to find a way of breeding hearing dogs. While there is no doubt that it is possible for people to train their own dogs to be assistance dogs the chances of it succeeding are very rare. The biggest problem with owner trainers and with some poor quality programs is that they are not willing to wash dogs out who do not have the temperament suited to such work. They keep training the dog until it reaches a standard where it can pass an ADI public access test without any regard to the dogs' well being, or whether the dog has a suitable temperament. The ADI public access test is really a basic obedience test done in a public place and does not in any way assess a dog's temperament which is largely genetic, although it is greatly enhanced by carefully controlled and planned socialisation programs. Further the ADI public access test takes about 15 minutes to complete and in no way assesses how the dog will cope when it is tired, worn out, stressed, etc. The timing of the test, the place of the test, etc are in many cases very carefully controlled to ensure the dog will perform at the time. In the case of Che Forest I know that his dog was wearing a head collar at time and yet such things would not be needed on a trained dog. A head collar is not a training aid, but rather a controlling aid as it physically stops the dog from pulling, lunging, etc without the handler needing to correct the dog in any way, shape or form. The Delta Society of Australia and other visiting pet therapy dog programs will not assess dogs in anything other than a standard flat buckle collar as they want to ensure that the dogs will be able to be controlled in all situations, given the stress that dogs can be under in such situations. One would assume that assistance dogs should have a higher standard and yet they do not appear to have. I have never met a visiting pet therapy dog that would not be capable of passing the ADI public access test, and yet I know too many assistance dogs which would not be capable of passing a temperament test to be a visiting pet therapy dog.

To me the most important things in any dog being in public are the temperament, obedience and public access skills of the dog. Whether the dog is trained to perform any task is largely irrelevant for many people in the community. But, it is what the law is focused on and I believe what the law will always be focused on. Task training is actually the easiest part of training any assistance dog, and so it need not be

something which a dog trained to be in a public place could not learn. While it is true that guide dog training is very difficult to teach it is not the reason dogs are washed out of guide dog programs. Dogs do not teach themselves to alert to things, and people who claim that have dogs which have severe temperament issues and are coming crying to the handler when they are fearful.

Psychiatric assistance dogs are extremely controversial mainly because of the very low standard of them. Such individuals also tend to choose dogs with the worst temperaments, when they really need them with the best temperaments. There are real tasks and not just emotional support, which these dogs can do. The worst aspect of these dogs is that many people are claiming the dogs are alerting to panic attacks and the like. It is physiologically impossible for a dog to alert to such things and any Psychiatrist can prove that. In order for someone to have a panic attack something has to happen to spark it off. It is a sight, sound or smell that sparks off panic attacks, and this is what causes them to happen. They happen very suddenly and without warning. For example say a person has a panic attack every time they see a white truck as they were raped in one. If we are to believe what the alerters say, a dog has psychic powers and knows when a truck is about to drive around a corner!! A true assistance dog is like a good therapist and will remain clam and unfazed when all around them is falling apart. This is what is needed for people with psychiatric conditions. Yet, the dogs these people chose and ones who run to them when they panic, etc. This is not good for the person as the dog is playing into the persons irrational beliefs that the world is a scary place, etc. A good therapist will not burst into tears when a client does, and a dog who scratches, whines, barks, urinates, vomits, etc is not alerting or supporting someone through a panic attack, but is having a panic attack themselves. This does not improve the person's situation, but rather makes them worse by reinforcing their irrational beliefs. There are real tasks that Psychiatric assistance dogs can do for people with psychiatric conditions and which can play a huge role in their ability to live an independent life, but for at least ninety-nine percent of the current ones in the community, they would be causing the person to actually deteriorate in condition rather than improve. Very few people are really disabled by their condition and most are able to be maintained if not cured by medication and talk therapy. Many of those that are disabled by their condition are so disabled by it that they are unable to look after themselves properly let alone a dog, or one that is in a public place. Service Dog Central is a brilliant US based website that can provide a lot of information about the realities of Psychiatric assistance dogs and what they really can do.

[www.servicedogcentral.org](http://www.servicedogcentral.org)

While there are times when people with diabetes can be helped by assistance dogs, again they are often very poorly trained dogs, and dogs who have no real scent training. These dogs are the easiest of all assistance dogs to trains as they are simply trained the same as any sniffer dog. Yet a program in Australia which currently places such dogs is doing the absolute opposite. They say the dogs should be taken away from littermates as early as possible, and have in some cases taken pups from their moms at birth and never allowed the dog near another person or dog!! This is guaranteed to create an aggressive dog that has no people or dog skills and would never be capable of passing any form of temperament test. They claim the dogs should not be near other people or dogs as they are scent trained and may mix up the scents of different people. They obviously have no idea of what scent training is or what it involves. Keeping a dog with someone 24/7 does not scent train a dog, what it does to is to create an incredibly insecure dog who has severe psychological problems and who is not alerting but rather is responding with fear when they smell something they become scared off. Such dogs would learn to respond to the same level of drop at

all times, and would not alert to a slight low one day and real low the next, while missing one occasionally. Further this program is placing dogs with people with type 2 diabetes who can be totally cured, if they are willing to lose the weight, and fix their diet. Many of these individuals do not take the dogs to work or school with them, and hence one has to ask what the people have for the dog. What it appears many of these people are asking for is an excuse to be allowed to have a dog with them at all times. They claim 8 week old puppies have public access rights, and yet such dogs are not trained to do anything, not even to know to toilet outside. While there is no doubt that diabetes is a horrible condition and it does require changes in lifestyle and diet to manage for most people an assistance dog is going to be more of a hindrance than an asset to their being in the community. There is nothing fun about having a dog with you 24/7, and for most people with an assistance dog it would be really nice to be able to walk down the street and buy a litre of milk without having to think about if the dog is clean, tidy, brushed, vest on, etc, just to do so, but for those with real assistance dogs this has not been an option before. There are people who do have life threatening comas from diabetes and I do support dogs in public for such situations providing the dogs are trained to an appropriate standard, know how to alert, and are rigorously temperament, obedience and public access tested, and not dragged everywhere as an 8 week old puppy.

Almost one eighth of a dog's brain and more than fifty percent of the internal nose are dedicated to smell. Humans have five million sensory cells in their noses, while dogs have between 220 and 300 million. How can a dog not be able to smell the difference between their handler and another person, when a two day old human infant can smell the difference between a pad with the mother's breast milk on it and that of another mother's breast milk.

Research by the Canadian Medical Association has shown that about fifteen percent of dogs have the ability to detect epileptic seizures before they occur. However, this does not mean that such dogs have the temperament suited to being in a public place. All dogs for seizure alerts should be taught how to press an alarm button for help, to roll a person into their side and to clear the person's airway of vomit. Alerting in and of itself should not be seen as making a dog an assistance dog.

My biggest concern however is with the use of autism assistance dogs with young children. In most cases the children are being tied to the dog in the belief that the dog will not allow the child to run onto the road, etc. Such behaviour is incredibly inhumane for the dog, and it in no way makes the child safe. Such children have a right to be tied to a competent adult and not to an animal. Further no child should ever be left alone with any dog in any circumstances and yet this happens all the time in such cases. Assistance dogs are not lassies in capes and should not be seen as such. They are animals with the rights and needs of any animal and the welfare of such dogs should never be undermined. What must it feel like for such dogs to be tied day in and day out to a child as out of control as many young children with autism are. While I have absolute sympathy for such parents and know the power of dogs for such children, tying a child to a dog is not humane for either child or dog. Further to assume that a parent can control the dog if needed via a leash is very naive. At an absolute minimum such dogs should be tied to a competent adult as well.

Legislation needs to make very clear that it is against the law to ask for any public accommodation to control a dog for a person, and that unless a child can take one hundred percent care and control for the dog in all situations that the dogs do not attend school with the child. There are many growing cases in Australia and especially in the US and elsewhere where teachers are being expected to control dogs for children at school. Teachers and teacher aids are employed to support children and not to control dogs for

children. Dogs have no role at school but if they are to be at school the parents need to provide a paid caregiver to care for and control the dog at all times. A teacher cannot control a dog and teach a class, and aides are there to help the child with school work and not to control the dog. Sure the dog may be trained, but they are not so perfect as to never need any correction at all in any situation. A teacher cannot be correcting a dog and teaching a class. Assistance dogs that attend school should be there to assist the child, and not to make the child more popular with other children.

I have never understood the attitude of some people who say “I cannot prove my dogs training because no one will accredit her”.

It took me almost two years to prove my dogs training in that sense of the word, but I have always done all that I could to prove her training, by getting well respected pet dog tests done, having veterinary behaviourists assess her on a Public Access Test and ensuring that every conceivable health test that could be done was done on her. She has had her hips and elbows scored, her eyes assessed by a veterinary ophthalmologist, a full heart, thyroid, kidney, hearing and other tests done, along with full blood work outs. Why: every bit of research has shown that the single most determining factor in any dog bite is an underlying health condition that has not been previously picked up. It is also a well known fact that the most stressful situation a dog can ever be placed in is that of a public access one and hence the dog needs to have not just obedience and public access tests done, but more importantly temperament and immense health checks, no matter what the dog’s role (tasks) may be.

I keep her vaccinated with a C7 vaccination. Sure the last two vaccinations are really not necessary, but given that I am taking my dog into public places, I feel that I need to do all I can to prove her health status. For the same reason I use the annual heartworm injection, as it is given by a vet, and hence I can prove that it was administered. She is wormed every 3 months with Drontal, for the simple reason that it is the single most effective all round wormer that exists and I cannot expect to have a dog in a public place with anything less. She is also on Advantix for fleas for the same reason. It is the most comprehensive flea control product that exists in that it covers fleas and ticks, but also mosquito’s, lice, sandflies, etc. My dog is bathed every 2 weeks in a guide dog shampoo, and during shedding season every week as it is the most effective way of reducing the amount of hair loss that occurs. She is brushed every day, and during shedding season this is at least twice daily and usually 3 times daily. I use a Furminator to brush her and although it cost me \$80, it is the most effective tool in reducing the amount of hair loss and this is something I need to consider if my dog is going to be in public places. I have a dog raincoat for her to help to keep her dry when it is raining, and I always carry a towel and this coat with me at all times.

In terms of training and proof of it, she has her Delta Canine Good Citizen Award, is a Delta visiting Pet Therapy dog, has a competition obedience title, as well as other local dog school advanced obedience awards. She has had a comprehensive temperament test done by a veterinary behaviourist as well as a Public Access Test done, which we scored one hundred percent on. She has 18 months ago been accredited by one of the top Assistance Dog Programs in the country, on the basis of the amount of evidence that I could provide about her health, behaviour, temperament, etc. It is not something that this program normally does, but it is something they have done in this particular instance, based on who my dog is, and the amount of evidence I had of her health, behaviour, temperament, training, public access skills and the like.

I have never ever had the attitude that the dog is trained because I say so, or because she has sat this test and the like. We continue to work towards my dog becoming an obedience champion. I hate competition obedience, but I feel that it is something that I really should be doing if I want to prove who this dog is and why she belongs in a public place. I have done all of these things while living on a pension and with absolutely no support what so ever from anybody else.

My dog is a psychiatric assistance dog and has been approved by one of the top programs in the country. It is not something this program normally does, but they have done for me. I have the full support of both a GP and Psychiatrist who have both been seeing me at least fortnightly for the last 10 years, and I have tried every conceivable other treatment, both medical, therapy, alternative, etc. I continue to have therapy in the hope that one day I will be able to live without a dog in a public place. My dog a yellow Labrador is of a temperament that is indescribable. If fire crackers are being let off in front of her, she ignores them while I run away. She is able to hold herself together when I am falling apart and this is best form of reality checking that I could ever have. I dissociate and can space out and not know where I am. My dog has been trained in guide dog tasks and can take me home on a 1.5 hour journey on 2 different types of public transport. She blocks me at roads as I used to wander onto them, and will not under any circumstances cross a road without a command, no matter how much I pull on the leash, etc. She has been trained in intelligent disobedience the same as guide dogs, but I and our trainers do not trust such training, and it is better for her to block until I can come to my senses and make a decision. If for some reason I am able to command without thinking and it has happened twice she has refused to go given the intelligent disobedience she has been taught. She finds bus stops, seats, exits to places, etc all to enable me to be able to get out of somewhere and to find home when I am disoriented and not aware of my surroundings. Before my dog I was lucky to leave home once a fortnight. I was also on three different medications just to keep me alive. I am now on a limited dose of one medication and back at TAFE studying full time, undertaking voluntary work, and being a part of my community. My dog initially came from the pets as therapy program of a guide dog program. I did not apply for her with the idea of her becoming an assistance dog, and I am lucky that she has the ability to do so. She was failed late in training as she looked at dogs more than they would have liked and a stray dog is more likely to follow a dog who looks at them. From the testing which has been done on her for me, she does not glance at a dog when I am unwell and has never been distracted by them in any way, shape or form.

No reputable program would ever put a dog, which they have never seen before, through a 10 minute public access test and then certify and accredited the dog on that basis. Programs which are not accrediting people's dogs are not discriminating against them. All programs specialise in certain disability types as they only feel that they have the expertise to train and place these types of dogs, and to assist a certain group of people.

There should be some way in which certain types of industries can apply to not to have to carry dogs in training, but the only one I can really think of is the airlines as I do not think that dogs in training belong in such circumstances. They can be trained on other forms of public transport as they do not need to experience the stress of flying in the plane cabin at such a young age.

We also need to consider the issue of public liability insurance. No dog is bite proof and despite the extensive health and temperament tests which programs carry out on their dogs, no dog is bite proof and hence all programs have public liability insurance in place for this very reason. Such things do not exist in



owner trained dogs, and while the legislation may say that people are responsible for any damage a dog causes this is only as good as a person's ability to pay for that damage.

We need to get all the reputable programs together, guide dogs included to come up with some form of Umbrella Assistance dog group in Australia like ADI and the International guide dog federation, to form some minimum temperament and public access standards for such dogs in Australia. I do believe that owner trainers should have to meet a slightly higher standard, but all dogs need to meet minimum standards.

I strongly recommend you look at these articles which are great at saying what is really possible and safe for assistance dogs.

<http://www.iaadp.org/lassie.html>

<http://www.iaadp.org/ptsd.html>

I am more than willing to be contacted for further information and to the sources of my information.