



Ensuring Access to Job Capacity Assessment sites

The Department of Human Services (DHS) requires all contracted Job Capacity Assessment (JCA) providers both government and non-government, to comply with the terms of relevant discrimination legislation. This includes the following Australian Government legislation: Disability Discrimination Act 1992, Age Discrimination Act 2004, Racial Discrimination Act 1975 and Sex Discrimination Act 1984. This is to ensure that any client who is referred for a JCA service has full access to the JCA premises and the provision of JCA services.

JCA providers may also be required to comply with the terms of their respective State and Territory anti-discrimination legislation.

What does 'access to premises' require?

All contracted JCA providers are required to ensure that the premises they operate out of are as accessible as possible to the public who use JCA services. JCA providers should remain aware of accessibility requirements related to various types of disability and their impact upon a person. For example, in addition to accessibility requirements for people with physical disability, accessibility requirements for people with hearing or vision impairment also require consideration when assessing the accessibility of your site.

Under the DDA, it is unlawful to directly or indirectly discriminate against a person with a disability in relation to access to and use of premises. 'Premises' means a building or place, or part of a building or place. The Human Rights and Equal Opportunity Commission (HREOC) has indicated this includes, for example: existing or new buildings, car parks, pathways and links between buildings.

While the DDA does not specify how to make a building accessible conciliated complaints and case law have shown that issues such as access through the main public entrance; width of doorways and passageways; circulation space; signage; usable and safe ramps, stairways and lifts; accessible toilets and accessible public announcements must all be provided.

What does 'provision of goods, services and facilities' require?

All contracted JCA agencies are required to ensure that goods, services and facilities are as accessible as possible to all clients.

Under the DDA, it is unlawful to directly or indirectly discriminate against a person with a disability by refusing access to goods, services and facilities, in the terms or conditions under which goods, services and facilities are provided or made available to other members of the public.

Again while the DDA does not specify how to make goods, services and facilities accessible, conciliated complaints and case law have shown that issues such as: provision of written and electronic information; websites; assistance with communication; reception areas and service queuing and notification systems are all areas where access must be provided.

What do I have to do to comply with legislation?

All JCA providers have committed to DHS that their sites and services are accessible to all JCA clients. DHS recommends that JCA providers clearly state arrangements regarding access to premises and services on their brochures and other communication products. This information and suitable accessibility signage at the

site is critical to ensuring a person with a disability can access a JCA as any other member of the public would.

Accompanying this factsheet, DHS has issued a 'checklist' for JCA providers to apply to their sites to assist in identifying and resolving issues to ensure equitable access to the premises and the services provided.

The checklist is not a technical specification document but rather a series of performance statements. It is the responsibility of individual JCA providers to refer to appropriate technical specifications where relevant. The checklist identifies relevant codes and guidelines. Other information and contacts attached to the checklist can provide explanation to clarify issues of access.

Compliance with the items in the checklist will be required for the JCA Request for Tender for JCA services in 2008. The benefits of compliance with accessibility regulations will also be realised in your organisation's contracted current or future business.

What does DHS require from JCA Providers?

Current JCA providers should assess their premises and services in accordance with the checklist, seeking expert advice as necessary. Where Providers believe that their premises or services do not provide for equitable access, this should be raised with DHS via the JCA provider's DHS contract manager and a plan of action proposed to address identified barriers.

DHS will then consider the proposed action to be taken by the JCA provider. Where DHS is not satisfied that this action is reasonable or timely, DHS may seek to negotiate changes to the plan and ultimately may instruct JCA providers to cease provision of JCA services at the affected site until it is accessible.

In addition, DHS staff will also conduct random site visits to review arrangements regarding access to premises and services.

Who decides if premises or services are inaccessible?

Complaints about inaccessible buildings or services can be made to the Human Rights and Equal Opportunity Commission (HREOC) or State and Territory anti-discrimination agencies.

If a complaint is lodged with HREOC, HREOC is responsible for trying to conciliate an agreement between the complainant and the respondent. If a conciliated agreement is not possible the complainant may take their complaint to the Federal Court or Federal Magistrates Service where a decision would be made about whether or not unlawful discrimination had occurred.

If a JCA provider receives a complaint regarding access to premises or services, the provider should notify DHS in accordance with existing notification procedures.

It should be noted that the DDA does not include a defence of unjustifiable hardship for Commonwealth Laws and Programs. Therefore, any finding by the Federal Court of discrimination is likely to result in a requirement that the barriers be removed.

Where do I go for more information?

Each JCA provider has nominated an 'accessibility contact' who will ensure accessibility requirements are being met within their organisation's sites. Please contact this person within your organisation for information and advice.

DHS encourages all JCA providers to incorporate accessibility as an item in their organisation's strategic plan or business plan. This will ensure that access to premises and services is always considered regarding operational and service delivery outcomes.

If necessary, JCA providers should seek legal advice about any complaints made about access to their premises or services, in addition to notifying DHS. Liability for any complaint should be clarified and

established so the appropriate remedial action can be followed. JCA providers should consult HREOC's [Conciliated Outcomes](#) webpage which provides examples of complaints and the resulting outcome.

Please visit the electronic hyperlinks (in blue) included in this factsheet for further information. HREOC maintains a [Frequently Asked Questions webpage](#) which outlines responses about access to premises and the provision of services.

DHS has also issued a contact list for Federal, State and Territory anti-discrimination organisations which can assist you further. This list is available at www.jca.gov.au

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Note: This factsheet is not intended to provide legal advice to you. You should seek your own professional advice on obligations imposed by legislation or at common law. DHS does not and will not provide legal advice to the JCA providers. It is essential that the JCA provider investigate and understand how the law will affect its obligations for delivery of JCA services and the premises from which they deliver such services and all other obligations imposed under the agreement with DHS.