

Fact Sheet 3: Assistance animals and your rights

What is an assistance animal?

An assistance animal is an animal that is trained to assist a person to alleviate the effect of a disability.

The *Discrimination Act 1991 (ACT)* (**Discrimination Act**) provides that an assistance animal is an animal that is trained to help a person alleviate the effect of their disability.

The *Disability Discrimination Act 1992 (Cth)* (**Disability Discrimination Act**) more specifically provides that an assistance animal is a dog or other animal that is:

- accredited as an assistance animal under a State or Territory law that provides for the accreditation of assistance animals
- accredited by a prescribed animal training organisation, or
- trained to assist a person with disability to alleviate the effect of the disability and meet standards of hygiene and behaviour that are appropriate for an animal in a public place.

Assistance animals can provide a range of support for people with disability and health conditions. Some examples of support that assistance animals can provide include:

- reducing anxiety
- performing personal care activities, such as opening doors or carrying items
- helping people with vision impairment move safely
- alerting a person with hearing impairment to sounds
- detecting high or low blood sugar levels in people with diabetes.

What rights do people with assistance animals have?

People with assistance animals have the right to access all public places that people are normally allowed access to (e.g. hospitals, hotels, public transport, restaurants, schools shopping centres).

People with assistance animals have these public access rights whether or not:

- the assistance animal is wearing a special coat or harness
- the assistance animal has been accredited under an assistance animal accreditation scheme, such as the ACT accreditation framework
- the person with an assistance animal has an ID card that confirms their animal is an assistance animal.

Discrimination rights for people with assistance animals

Generally, it is against the law to treat someone unfairly in an area of public life specified under the Discrimination Act or Disability Discrimination Act, because they have an assistance animal. Examples of areas of public life covered by the Acts include employment, education, access to premises and in the provision of goods and services.

There are some exceptions that apply. For example, under the Disability Discrimination Act, it is not unlawful for another person or organisation to:

- request or require a person with an assistance animal to remain in the control of the person with disability, or someone else on behalf of the person with disability

- discriminate against a person with an assistance animal if they reasonably suspect that:
 - the assistance animal has an infectious disease, and
 - the discrimination is reasonably necessary to protected public health or the health of other animals
- discriminate against the person with an assistance animal if they request or require the person with disability to provide evidence that their animal is an assistance animal, and the person with the animal does not:
 - produce evidence that the animal is an assistance animal, or
 - produce evidence that the animal is trained to meet standards of hygiene and behaviour that are appropriate for an animal in a public place.

Offences relating to public access rights for people with assistance animals

The *Domestic Animals Act 2000 (ACT)* makes it an offence for another person or organisation:

- to stop a person with an assistance animal from entering or using a public place or premises because of the animal, without a reasonable excuse
- to stop an assistance animal from entering a public place or premises, without a reasonable excuse
- to remove an assistance animal from a public place or premises, unless the person or organisation has a reasonable excuse
- for a person or organisation who has been shown evidence that an animal is an accredited assistance animal by the person with an assistance animal to:
 - stop the person with the animal from entering or using a public place or premises because of the animal
 - stop the animal from entering a public place or premises
 - remove the animal from a public place or premises, and
- to require a person with an assistance animal to pay a fee or charge to bring an assistance animal into a public place or premises.

For each of these offences:

- Domestic Animal Services can issue a \$500 fine.
- If the matter were to proceed to the ACT Magistrates Court, the maximum penalty is 50 penalty units (\$8,000 for an individual, or \$40,500 for a corporation).

What can I do if I have been treated unfairly because I have an assistance animal?

Make a discrimination complaint

If you have been treated unfairly because you have an assistance animal, you may be able to make a discrimination complaint to the ACT Human Rights Commission or the Australian Human Rights Commission.

You should consider a number of factors in deciding which commission to complain to. You should seek legal advice to make this decision. You can seek free legal advice at the legal services listed below.

You do not need a lawyer to make a complaint but it can help to discuss your complaint with a lawyer before you lodge it so that you are sure that you have included all relevant information.

For more information on making disability discrimination complaints, see Fact Sheets “Disability Discrimination Complaints in the ACT Human Rights Commission” and “Disability Discrimination Complaints in the Australian Human Rights Commission”.

Report the incident to Domestic Animal Services

If you or someone you know has been denied their public access rights because they have an assistance animal, you can report the incident to Domestic Animal Services.

Domestic Animal Services will investigate the matter (including contacting parties involved). Domestic Animal Services may then decide to issue a fine or consider referring the matter to the ACT Director of Public Prosecutions.

ACT assistance animals framework

About the framework

On 1 July 2020, the ACT commenced a voluntary scheme for people with disability, which promotes, protects and clarifies the existing rights that people with assistance animals already have. The framework does not create any new rights in relation to existing discrimination laws. Under the framework:

- People who rely on an assistance animal to alleviate the effects of a disability can have their assistance animal tested accredited, registered, and be given an assistance animal ID card for a period of up to two years.
- Assistance animals can be accredited by an assistance animal trainer, if the trainer is satisfied that the animal has completed training required under the assistance animal standard.

In the future, it is expected that Domestic Animal Services will also be able to accredit assistance animals, if they are satisfied that the animal has the training, hygiene and behaviour that meets the assistance animal standard.

The accreditation and registration process will vary, depending on whether or not your assistance animal has already been accredited by a recognised organisation or another state or territory accreditation scheme.

Assistance animals standards

The *Domestic Animals (Accredited Assistance Animal Public Access Standards) Determination 2020* sets out the minimum standard of training, behaviour and hygiene required for assistance animals accessing public places in the ACT.

The standards cover:

- the management, care and welfare of assistance animals, including a health declaration from a registered veterinarian and a demonstrated awareness by the handler of the animal's toileting routine and stress signals
- signs of stress in assistance animals and detecting signs of aggression
- grooming and hygiene of the assistance animal
- obedience, focus and behaviour of the assistance animal in various modes of transportation and busy public places, and
- the abilities of the handler/s to manage the assistance animal appropriately and ensure effective control at all times.

The *Domestic Animals (Assistance Animal Accreditation) Guidelines 2020* provide guidelines for the accreditation of assistance animals in the ACT.

Should I apply to have my assistance animal accredited under the framework?

An assistance animal does not need to be accredited under a government scheme or by a prescribed training organisation to meet the definition of an assistance animal under the Discrimination Act or Disability Discrimination Act.

However, although a person can train an assistance animal themselves, to avoid a dispute as to whether an animal is an assistance animal, it is often more practical to have an assistance animal accredited under a government framework, or by a recognised organisation, trainer or assessor.

For further information on the ACT assistance animal accreditation framework, including how to have your assistance animal registered and accredited, as well as a list of registered trainers and assessors and recognised organisations, visit: <https://www.cityservices.act.gov.au/pets-and-wildlife/domestic-animals/assistance-animals2>.

Useful Contacts

Disability Discrimination Law

Located at Canberra Community Law, Level 1, 21 Barry Drive Turner (Cnr Watson Street & Barry Drive) – ground floor meeting rooms available.

You can speak to a solicitor by calling 02 6218 7900.

If you need an interpreter please call the Translating and Interpreting Service on 131 450 and ask them to ring us.

If you are deaf or have a hearing or speech impairment contact us through the National Relay Service. For more information visit <https://www.communications.gov.au/what-we-do/phone/services-people-disability/accesshub/national-relay-service>

If you prefer to email please contact us at info@canberracommunitylaw.org.au

Further information:
<http://www.canberracommunitylaw.org.au>

Domestic Animal Services

Phone: 13 22 81

Email: dogcontrol@act.gov.au

ACT Human Rights Commission

Phone: 02 6205 2222

Email: human.rights@act.gov.au

Australian Human Rights Commission

Phone: 1300 656 419

Email: infoservice@humanrights.gov.au

Women's Legal Centre

Phone: 02 6257 4377

Email: admin@womenslegalact.org

Further information: <http://womenslegalact.org/>

Legal Aid ACT

Phone: 1300 654 314

Email: legalaid@legalaidact.org.au

Further information:

<http://www.legalaidact.org.au>

Disclaimer

The material in this fact sheet is intended as a general guide only. Readers should not act on the basis of any material in this publication without first getting legal advice about their particular situations. If you would like more information, please contact Canberra Community Law on 6218 7900.

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