

People with Disability WA Inaugural State Conference 20 November 2020
Dr John Byrne, Commissioner for Equal Opportunity WA

Good morning and thank you for inviting me here today. I am pleased that we are holding an inaugural state conference and am impressed by the agenda.

I have a disability. I have been profoundly deaf since I was a child. That can result in some interesting situations in public speaking, but I am sure we will get by.

I have been Commissioner for Equal Opportunity since 2016. A key part of my role includes investigating and endeavouring to conciliate complaints of discrimination.

The most common complaint is from a person with a disability who has been discriminated against in employment.

Equal opportunity laws have been in place for over 30 years and one would expect all employers are complying with the law and not discriminating.

However, the evidence is that people with a disability have significantly higher rates of unemployment. People with disability are twice as likely as those without a disability to be unemployed. Many people with a disability have become despondent and discouraged from continuing to seek employment. For people of working age, 50% of people with a disability are not seeking employment compared to 20% for those who do not have a disability. The average pay for people with a disability is significantly lower than for those who do not have a disability.

Equal opportunity laws are not ensuring a fair go in employment for people with a disability.

The laws have been effective in improving access to goods and services and to education. For example, as a deaf person I rely on captions on television and in cinemas and live theatre. I am one of over one million Australians with a hearing impairment who use captions every day. Equal opportunity laws are the reason we have captions. I know about this because 20 years ago I was involved in the successful negotiations with the free to air TV industry, pay TV and cinema industries. The industries knew that if negotiations failed, court action under equal opportunity legislation would succeed and force them to caption.

Equal opportunity laws have improved many areas of our lives but have been less successful for employment.

One of the difficulties is that the onus of proof that discrimination has occurred is placed on the person with the disability. Nowadays employers are aware that they should not discriminate and are unlikely to provide evidence that they have done so.

What is the solution?

At one stage it seemed that the National Disability Insurance Scheme would assist people with a disability into employment. The NDIS has been successful with better integration of people with a disability into society. This is important and

commendable. The NDIS is also supporting some people with disability in employment. About 25% of people receiving NDIS support are employed. However, NDIS support is restricted to people with more severe disabilities. Only one person in 10 with a disability is eligible for NDIS support. It follows that only one person in 40 with a disability is receiving NDIS support and is employed. NDIS is not making a significant difference in employment for people with a disability. That may be something we need to address.

Another solution is to change equal opportunity laws to make them more effective. In Western Australia the Law Reform Commission is reviewing the Equal Opportunity Act and one of its terms of reference is to review the onus of proof. Another term of reference is to place a positive duty not to discriminate on employers and a third is to require reasonable adjustments to be made by employers for employees with a disability. A discussion paper will be released early next year, and everyone will have an opportunity to make a submission.

I encourage you to watch for the discussion paper and take this opportunity to advocate for changes that will improve the employment opportunities for people with disability.

In closing I wish you a successful state conference. You have my support.

Thank you.