

Technical Bulletin: 01/15

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To: Justices of the Peace and
Commissioners for Declarations

Anti-discrimination and the Role of Justices of the Peace and Commissioners for Declarations

Background

When using Justice of the Peace (JP) or Commissioner for Declarations (Cdec) witness services, clients expect that JPs and Cdec's will abide by the rules and responsibilities of the role. Clients also expect that as a JP or Cdec, you will perform your duties in a way that is consistent with the law.

The *Anti-Discrimination Act 1991* (Qld) (the Act) aims to promote equality of opportunity for everyone by protecting them from unfair discrimination in certain areas of activity. The Act also provides a way to make a complaint about discrimination and have it resolved by the Anti-Discrimination Commission of Queensland, an independent statutory body.

Legislation

Section 7 of the Act prohibits discrimination on the basis of the following attributes:

- 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
- association with, or relation to, a person identified on the basis of any of the above attributes.



Section 9 of the Act provides that direct or indirect discrimination on the basis of the attributes listed is prohibited.

Section 46 of the Act provides that a person must not discriminate against another person in the provision of services, whether or not for reward or profit. JPs and Cdecs provide a service to the community and are therefore required to comply with the Act.

Witnessing procedure

It is imperative that you do not let your personal attitudes, values and beliefs affect you performing your role as a JP or Cdec. If you choose not to assist a client on the basis of an attribute listed under the Act, you may be considered to be discriminating against the client and open to a complaint being made against you.

The **Justices of the Peace and Commissioners for Declarations Code of Conduct** states that JPs and Cdecs: *“shall at all times serve their fellow citizens with courtesy, dignity, consideration and compassion”* and *“shall not act with bias, prejudice, intolerance, bigotry, malice [or] ill will. They shall pursue the principles of equity and social justice as consistent criteria in all their dealings with the community.”* If you discriminate against another person, you will also be in contravention of the Code of Conduct.

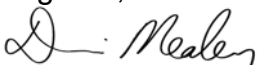
Some examples of behaviours that would amount to discrimination include, but are not limited to:

- refusing to witness domestic violence or family law documents because you do not believe in divorce
- refusing to verify the identity of a person due to their cultural dress
- forcing a client to make an oath when they have stated that they would like to make an affirmation
- refusing to assist a client because they are breastfeeding
- refusing to witness documents proving the existence of a relationship between two people of the same sex
- refusing to assist a client due to a perception that the client may have a disability.

You must consider how your actions could be perceived by a client and follow standard witnessing procedures as outlined in the JP and Cdec handbooks. If you are in doubt about how your actions could be perceived, please contact the JP Branch on 1300 301 147.

The Anti-Discrimination Commission also provides training to assist Queenslanders to understand their rights and responsibilities under anti-discrimination laws. The Anti-Discrimination Commission’s website outlines further information about their training programs at www.adcq.qld.gov.au/training.

Regards,



Damien Mealey
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