



MAGISTRATES COURT OF TASMANIA

Administrative Direction (Staff)

No 1 of 2023

Trained Assistance Animals in Courts

This administrative direction sets out the requirements relating to trained assistance animals in Courts.

Some people with disability use support services and assistive technology to help them participate in public life, and for personal activities. One type of support is provided by trained assistance animals.

The issues relating to the use and regulation of assistance animals by people with disability are complex, and can present issues for regulators.

Any animal may provide assistance to a person with disability but most assistance animals are dogs. This policy applies to all assistance animals.

Assistance animals are not pets, they provide a support service for a person with disability.

Assistance animals can help alleviate the barriers people with disability experience in daily activities. Assistance animals can provide support to people who are blind or have low vision; are deaf or hard of hearing; for people who require physical support for mobility or other functional tasks; people who experience episodic and serious medical crisis (e.g. epilepsy, changes in blood pressure or blood sugar); and people who experience psychiatric disorders such as post-traumatic stress disorder, anxiety, hallucinations, panic attacks or suicidal ideation.

Tasmania does not currently have legislation that provides for the accreditation and training of assistance animals.

Definitions

Accreditation and/or training - Includes any accreditation or training provided under any State or Territory legislation.

Assistance dog – A dog trained to provide assistance to one person with a disability.

References to assistance dogs in this policy should be read to include other assistance animals.

Process

1. Before a dog and handler are allowed to enter Court premises security officers should determine whether the dog is an accredited assistance dog.
2. An accredited assistance may wear a dog coat (often, but not always, bright orange) with an assistance dog badge from the organisation that accredited the dog.
3. If it is clear to the security officer the dog is an accredited assistance dog the handler and assistance dog should be greeted in the customary way, allowed to enter the Court building, and offered relevant assistance.
4. If there are no visible signs that the assistance dog is accredited security officers should ask the handler:
 - a. whether they can provide any evidence that the assistance dog has accreditation (another State's accreditation will suffice); or
 - b. whether the dog has been provided with special training as an assistance dog.
5. It is lawful under the DDA to ask for or require evidence of accreditation or training. It is not unlawful to discriminate against a person who does not provide evidence of these matters.
6. If the assistance dog is not accredited, security officers should politely ask the handler what assistance the dog provides them and whether they have documentation from a doctor (or allied health professional) stating that the assistance dog provides some medically/psychologically valid form of support (e.g. helps to manage panic attacks).
7. If an assistance dog is not accredited the security officer may allow the assistance dog to enter the Court premises if they are satisfied:
 - a. that there is sufficient evidence of training and need as set out in paragraphs 4b and 6 to determine that the assistance dog is trained to assist a person with a disability to alleviate the effect of the disability; and
 - b. the assistance dog meets the standards of hygiene and behaviour that are appropriate for an animal in a public place.
8. If these requirements are satisfied the assistance dog and their handler should be greeted in the customary way, allowed to enter the Court building, and offered relevant assistance.
9. If security officers assess the dog as meeting all requirements to be permitted on Court premises, the handler should be advised that the assistance dog must be kept under effective control¹ (i.e. on the lead) at all times and that if the dog is disruptive or is not kept under effective control the handler may be required to take the dog outside.
10. If security is not satisfied that the dog meets the requirements to be permitted on Court premises, security will direct the person to leave the dog outside the Court premises.

¹ As defined under Section 4(1) or 4(3) of the *Dog Control Act 2000 (Tas)*

11. If it is practicable to do so, the relevant magistrate should be forewarned that a person before the court (defendant, applicant, respondent, party, witness, onlooker, etc.) will want to bring their assistance dog in the courtroom, and that the assistance dog is accredited, or wearing an assistance dog coat or has been trained appropriately.
12. Each magistrate may determine whether to allow an assistance dog or animal into their courtroom.
13. If it is practicable to do so, mediators and conciliators should be forewarned that a person attending the mediation/conciliation will want to bring their assistance dog into the room, and that the assistance dog is accredited, or wearing an assistance dog coat or has been trained appropriately.
14. If security officers are unsure of whether to admit a dog to the Court premises they are to refer the matter to a senior manager at the Court.

Note

An assistance dog is a working animal, so the best approach is often to ignore the assistance dog, or seek the handler's permission to interact.

Policy

1. Two of the goals of the Magistrates Court as set out in the Court's Strategic Plan are:
 - a. Improved access to justice; and
 - b. A modern, safe, accessible Court.
2. The Court is committed to providing its services to people with disability who are supported by assistance dogs, in accordance with the Court's values of integrity and respect for all.
3. Assistance dogs and their handlers are entitled to access all public places in all Court buildings, provided they meet the accreditation or training standards set out in the *Disability Discrimination Act 1992 (Commonwealth) (DDA)*.

Pauline van Adrichem
Acting Administrator of Courts

8 March 2023

Security Checklist for Assistance Dogs

(Note: This refers to all assistance animals, not only dogs).

If a dog is brought to Court and the handler says it is an assistance dog you are allowed to ask some questions to decide if the dog is an assistance dog.

It is not discriminatory to ask some questions respectfully and politely.

- Is there proof of accreditation as an assistance dog?
- Does the dog have any special training?
- Any other evidence about support the dog provides e.g. letter from doctor saying dog helps with anxiety
- If not accredited, are you satisfied
 - the dog has training and
 - there is a need (e.g. a doctor's letter)
 - the dog's standard of behaviour and hygiene is suited to a public place
- If you are satisfied it is an accredited assistance dog, or meets the standard required, let the dog and handler into the building and ask the handler if they require any assistance
- Tell the handler that the dog must remain on a lead
- If the dog is not an assistance dog ask the handler to leave the dog outside, off Court premises
- If practicable, ask Court staff to advise the magistrate that the person will have an assistance dog and wishes to bring it into the courtroom
- If you are not sure what to do, refer to a senior member of Court staff

An assistance dog is a working animal, so the best approach is often to ignore the assistance dog, or seek the handler's permission to interact.

Relevant Laws

- Assistance dogs in Australia and people who use them are protected under the [Disability Discrimination Act 1992 \(Cth\)](#) (DDA). Section 9 of the DDA defines an assistance animal as a dog or other animal that:
 - (a) is accredited under a State or Territory law to assist a person with a disability to alleviate the effects of disability; or
 - (b) is accredited by an animal training organisation prescribed in the regulations; or
 - (c) is trained to assist a person with a disability to alleviate the effect of the disability and meets standards of hygiene and behaviour that are appropriate for an animal in a public place.
- Under the DDA there is no distinction made between a guide dog, hearing dog or service dog – they are all considered to be assistance dogs.
- A recent Federal Court decision (*Mulligan v Virgin Australia Pty Ltd*²) sets out the law with respect to assistance animals and travel on aircraft. The Human Rights Commission has summarised the decision in the following way:

“This is a decision of the Full Court of the Federal Court, allowing an appeal from a decision of the Federal Circuit Court (*Mulligan v Virgin Australia Airlines Pty Ltd [2015] FCCA 157*).

Mr Mulligan complained that Virgin Airlines Australia Pty Ltd (Virgin) discriminated against him on the grounds of disability, by refusing to allow him to travel on flights while accompanied by his assistance dog.

Mr Mulligan’s dog had been trained to assist him with relation to his cerebral palsy and vision and hearing impairments. It had been trained by a dog training school, but not one that was “accredited” for the purposes of the DDA.

The Court allowed the appeal, and ordered that Virgin pay Mr Mulligan compensation in the amount of \$10,000. The Court also declared that the conduct of Virgin amounted to unlawful discrimination under the DDA.

The key findings of the Court in the appeal include:

1. An animal may be an assistance animal under the DDA if it has received relevant training, regardless of who has provided that training

It isn’t necessary that an animal has been trained by an “accredited” organisation. The DDA provides several ways an animal can qualify as an assistance animal. Under one of these, an animal will qualify as an assistance animal if it is trained to assist a person with a disability, and trained to meet standards of hygiene and behaviour that are appropriate for an animal in a public place. The Court found that Mr Mulligan’s dog was trained to meet this definition of an assistance animal under the DDA.

2. The correct “comparator” for Mr Mulligan was a person who was not accompanied by an assistance animal

² [2015] FCAFC 130

Mr Mulligan had claimed that Virgin “directly” discriminated against him. To make out a claim of direct discrimination, it was necessary for Mr Mulligan to show that he was treated less favourably than a person “without [his] disability” would have been. The DDA has special provisions relating to assistance animals. To discriminate against a person because they are accompanied by an assistance animal amounts to discriminating against them because they have a disability.

- 3. The Civil Aviation Regulations did not override the DDA, and prohibit Virgin from carrying Mr Mulligan’s dog.**
- 4. The Court in this case did not consider the question of what kind of evidence a person who claims they have an assistance animal can be asked to provide to show that their animal is:**
 - (a) an assistance animal; and
 - (b) trained to meet appropriate levels of hygiene and behaviour.

The DDA states that it is not unlawful to ask for this evidence, and it is not unlawful to discriminate against a person who does not provide evidence of these matters. Because of its other findings, the Court did not need to consider in detail the questions of what kind of evidence a person can ask for, how much evidence they can ask for, and how persuasive it must be.”

- This case highlights that the existing law can create confusion as it provides permission for animals who have been certified or accredited (to travel), in addition to those who have had appropriate training, but don’t have accreditation or certification. The determination of appropriate standards of “hygiene and behaviour” is also an issue of confusion, as it is not specifically set out in the DDA.
- There is no system of accreditation existing in Tasmania for assistance dogs and no specific certificates/passes are issued to assistance dogs or their handlers.