



Australian
Human Rights
Commission

Mobility Scooters in Registered Clubs Issues Paper

23 APRIL 2014

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1 Introduction

This paper aims to start a discussion about mobility scooters (scooters) and their use within and around Registered Clubs (the Clubs). It has been produced as part of a project initiated by a partnership between the RSL & Services Clubs and the Australian Human Rights Commission. Supporting the partnership are Clubs NSW, Leagues Clubs Australia and Bowls NSW. It will be used as the basis for initial consultation with all stakeholders with a view to producing advice or guidance for use by the Clubs and their members with potential to be used in other jurisdictions.

The guidance material will provide:

- advice on the use of scooters for Clubs and scooter users
- information about the law in regard to access to premises
- a checklist for the Clubs to use within their premises to assist in identifying how best to ensure safe and equitable use of scooters
- a range of useful resources and references to increase education about scooter use.

This paper will look at a selection of discussion topics regarding existing or potential concerns and will make suggestions for equitable and safe use of scooters in and around Club premises.

In Australia it is against the law to discriminate against people with disability. The *Disability Discrimination Act 1992* (Cth) (DDA) ensures that people with disabilities have the same rights and level of access to opportunities, premises and services as other members of the community. There is also similar legislation in each State and Territory.

In order to abide by the law and support members of the Clubs to take full advantage of their membership in and around the Clubs, it is important to discuss the issues and seek appropriate solutions. This type of discussion and consultation is critical to mitigate risk of a potential DDA complaint and has the capacity to clarify the issues and provide guidance and support to the members who need to use a scooter.

2 Background

Scooters have become an indispensable form of transportation for a large number of people who wish to keep their independence and maintain their wellbeing in the community.

As the number of older people in our community increases, it will be inevitable that more scooters will be in use in our community. Scooters are increasingly used by older or less mobile people and people with disabilities as a form of transportation to remain active and engaged with the community.

Most motorised mobility device users choose motorised scooters as their preferred form of transportation for one or more of the following reasons:

- They have some kind of impairment that prevents long distance walking, or are unable to walk
- They have relinquished (either voluntarily or by necessity) their car licence
- They do not want to be isolated at home, dependent, or institutionalised
- They wish to do something about their carbon footprint by reducing their dependency on cars.

Scooters used by people to alleviate the effect of their disability would be regarded as a 'disability aid' under the DDA and it would be unlawful to discriminate against a person using a disability aid.

The exact number of scooters in Australia is difficult to quantify because scooter users are not required under Australian road rules to register their device (other than Queensland) and are considered the same as pedestrians. As a pedestrian, scooter users must observe the road rules applied under the NSW Roads and Maritime Services.

3 Definition

There are a variety of types of 'scooters' available in Australia but for the purposes of this paper, this is a typical description of the mobility scooter under discussion:

'Mobility scooters' - are battery powered three or four wheeled mobility devices that are specifically designed to travel on footpaths. They are a simple vehicle with few working parts, requiring a relatively low level of maintenance. Scooters are primarily designed for use by frail aged or people with a mobility impairment.



In general, scooters have a maximum speed of less than 10 kph. They are activated by a simple throttle, operated by the fingers, which controls both speed and braking. Steering is via a variety of types of handlebars that operate in a similar fashion to push bikes or motor bikes. They come with varying equipment levels, from twin headlights, blinkers, visibility flags, even independent suspension, down to basic machines with simple controls.

4 Standards or Rules for Scooters

There are no standards for scooters in Australia however, the Australian Road Rules consider scooters the same as motorised wheelchairs. The rules that apply are the same as those that apply to pedestrians. Under the Australian Road Rules, a person using a motorised wheelchair or scooter is classified as a pedestrian and:

- Cannot travel at a speed greater than 10 km/h on level ground
- Must have an unladen weight of less than 110kg
- Can only travel on the road where a footpath is not available, is being repaired or is unsafe due to damage
- Must keep as far to the side of the road as possible and face oncoming traffic if no footpath is available

- Must observe all the same road rules that apply to pedestrians
- Must not use the motorised wheelchair with a blood alcohol concentration of 0.05 or more
- Must not carry any passengers

An unofficial recommendation from scooter retailers for speed limits inside buildings is suggested at 3 kms per hour.

The *Disability (Access to Premises – buildings) Standards 2010* (Premises Standards) and Building Code of Australia (BCA) describe the minimum requirements for access for features such as doorway widths, wheelchair spaces in theatres, corridor widths, circulation areas around doorways and lift floor sizes. All the minimum dimensions in the Premises Standards and BCA are based on research that looked at wheelchair users and not motorised scooter users and assume a basic maximum occupied wheelchair footprint of 800 mm wide x 1300 mm long.

There are no minimum or maximum dimensions for the width, length or turning space requirements for scooters in the Premises Standards, which do not deal with any specific mobility devices. Rather, the Premises Standards and BCA define the minimum requirements for building construction. People selling, recommending and purchasing scooters need to be aware of these requirements when making choices about which scooter is suitable if the intended use includes travel inside buildings. Appendix 1 contains further information on this issue.

5 Issues for Clubs and Members

The issues for Clubs and members in relation to members attending in and around the Clubs premises may be many and varied. As mentioned in the introduction, the objective of this paper is to provide a prompt for discussion to ascertain which issues need to be addressed in any guidance material.

In order to prepare for the proposed consultation the list below will identify some typical questions that may arise:

1. **Speed** - What issues have arisen concerning the speed of scooters travelling internally and externally on Club premises? What ideas do you have about what can be done to address any concerns?
2. **Scooters** - What issues have arisen concerning the type or size of scooters used internally and externally on Club premises? What ideas do you have about what can be done to address any concerns?
3. **Parking** - What issues have arisen concerning the parking of scooters used internally and externally on Club premises? What ideas do you have about what can be done to address any concerns?
4. **Access** - What issues have arisen concerning the use of scooters in particular areas of Club premises? What ideas do you have about what can be done to address any concerns?
5. **Manoeuvrability** - What issues have arisen concerning the manoeuvrability of scooters in particular areas of Club premises such as gaming areas? What ideas do you have about what can be done to address any concerns?

6. **Recharging** - Can scooter users safely charge their scooter batteries on Club premises?
7. **Safety** – What safety issues have arisen for scooter users, staff and other members and what ideas do you have about what can be done to ensure safety while protecting a person’s right to use a scooter?
8. **Alcohol** – Have there been any instances where scooter users have had too much to drink raising questions about whether they should ‘drink and drive’?

6 Additional issues for Scooter Users

Inherently, scooters are safe as a mode of transportation. However, there is mounting community concern over safety issues. A report published in March 2011 by Monash University targeted at injuries related to scooters found that 62 Australians aged between 60 and 90 have died from collisions or falls since the year 2000 and hundreds more have been hospitalised as a result of falling or losing control of their scooter. It would be likely that Clubs would not like to see their members become one of those statistics.

Additional issues of particular interest for scooter users:

1. **Definition** - What is the difference between scooters, ‘gophers’ or ‘buggies’?
2. **Car Replacement** - Are people allowed to get a scooter as a replacement for a car?
3. **Eligibility** - Who is entitled to drive scooters and what competency and control is needed?
4. **Training** - What sorts of training do scooter users need to have a scooter?
5. **Vision or hearing issues** - What issues are there if users vision or hearing impairments increase?
6. **Deteriorating health** – What are the issues scooter users need to consider if deteriorating health limits their capacity to drive scooters?
7. **Mechanical problems** - What is the Clubs responsibility to users if users have mechanical problems?
8. **Injury** - What is the Clubs responsibility if someone injures themselves or others on Club premises?

7 Best Practice Considerations

The RSL, partner in this project, is a well-respected service in Australia and is dedicated to supporting their serving and ex-service personnel. The RSL’s Mission Statement in part reads “..to provide for the **well-being, care** compensation and commemoration of serving and ex serving defence force personnel..”. This support is well acknowledged and one would expect ongoing through member’s life stages and ages.

As a respected and supportive service it would seem that the dedication to the philosophy of ‘setting an example of public spirit’ and ‘standard of dignity’ for its members, the RSL could position themselves by demonstrating ‘best practice’ provisions to be a proactive leader in Australia in relation to scooter usage of their members. With an ageing demographic of members and endorsement of the State

President D.E.J. Rowe's statement on the website, it seems like a perfect opportunity to extend the support for the wellbeing and care for ex-servicemen and women.

*Since this League's formation, benefits were not the only matters that concerned the membership. Our defined aims, objects and ideals have seen the League in New South Wales, at Local, District and State level, continue to perpetuate the close ties of friendship created by mutual service; maintain a **proper standard of dignity** amongst those serving and those who have served; set **an example of public spirit**; continue to preserve the memory and records of those who suffered and died for Australia; recognise our duty to inculcate loyalty to the nation; guard the good name and **preserve the interests and good standing of the members** of the defence force; and promote the unity of the Commonwealth of Nations, the defence of Australia and the maintenance of a sustained and selective immigration policy, as well as other objects. State President, D.E.J. Rowe.*

8 Questions about best practice

Ideas for future best practice approaches by the Clubs could include discussion about:

- Facilitating an expo or information sharing day about scooters, individual Club limitations, consumer choice questions and the responsibilities of ownership
- Offer training for users on safety and scooter etiquette
- Provide regular forums with guest speakers e.g. Taxi Directorate
- Provide a scooter recharge facility
- Investigate the feasibility to provide secure, dedicated undercover parking outside the premises
- Provide brochures, mobility maps, insurance or other resources for members
- Offer free mobility, cognitive, vision and hearing assessments for users to ensure their continuing safety within and outside the premises.

9 Conclusion

The contents of this paper will provide topics for discussion at a scheduled meeting in May with the Commission that will brainstorm the issues in regard to scooter usage within and around the Clubs. It will hopefully introduce another point for discussion about the potential for 'best practice' provisions and consider further supports for members who use scooters.

Once the consultation process has been completed, the Advisory Note will be prepared with all the necessary detail and be made available for comment from the consultation participants and the Commission. If the DDA were to be amended in the future to allow for co-regulation, the Advisory Note could also provide a basis for regulation in this area; a great 'feather in the cap' for the Clubs to have initiated these discussions.

The Commission and the disability consultant, Deb Whitecross look forward to working closely with representatives of the Clubs towards a satisfactory and

potentially proactive direction for policy development in regards to scooter users in Clubs.

Appendix 1 – Premises Standards and Building Code of Australia

Note on minimum dimensions and circulation space requirements to meet the minimum requirements of the Premises Standards and Building Code of Australia

The *Disability (Access to Premises – buildings) Standards 2010* (Premises Standards) and Building Code of Australia (BCA) describe the minimum requirements for access for features such as doorway widths, wheelchair spaces in theatres, corridor widths, circulation areas around doorways and lift floor sizes.

For new buildings and new parts or upgraded parts of existing buildings a building owner or operator can be confident that if they meet these minimum requirements they are meeting their legal responsibilities and cannot be subject to a successful complaint under the DDA. There is nothing to stop a building owner or operator going beyond the minimum requirements, however, and many developers do.

Examples of minimum requirements in the Premises Standards and BCA include:

- Clear door leaf opening minimum 850 mm
- Corridor width minimum 1000 mm
- Passing spaces along corridors (where required) 1800 mm wide x 2000 mm long minimum
- Lift floor space for a lift travelling 12 m or less 1100 mm x 1400 mm minimum
- Area needed on a corridor to enable a wheelchair user to turn 90° 1500 mm x 1500 mm minimum
- Area needed on a corridor to enable a wheelchair user to turn 180° 1540 mm x 2070 mm minimum
- Width of space required in a theatre for a wheelchair user 800 mm minimum
- Width or corridor outside a doorway entry into a room varies according to approach and the way the door swings but generally the corridor at this points is required to be wider than the 1000 mm minimum

All the minimum dimensions in the Premises Standards and BCA are based on research that looked at wheelchair users and not motorised scooter users and assume a basic maximum occupied wheelchair footprint of 800 mm wide x 1300 mm long.

For new buildings and new parts of existing buildings if an owner or operator ensures that the minimum dimensions and circulation space requirements in the Standards are met, they are meeting their legal obligations irrespective of the size and circulation space requirements of wheelchairs or scooters.

If a person with disability uses a scooter to alleviate the effect of their disability the scooter would be defined as a 'disability aid' and is covered by the DDA.

However, under the Premises Standards and BCA if a person purchases a scooter that, for example, is wider than would fit through an 850 mm doorway or one that could not turn in a corridor with a 90° change in direction in a 1500 mm x 1500 mm

area they could not legally be successful in a discrimination complaint under the DDA.

There are no minimum or maximum dimensions for the width, length or turning space requirements for scooters in the Premises Standards, which do not deal with any specific mobility devices. Rather, the Premises Standards and BCA define the minimum requirements for building construction. People selling, recommending and purchasing scooters need to be aware of these requirements when making choices about which scooter is suitable if the intended use includes travel inside buildings.

Existing buildings

The situation is not as clearly defined in existing buildings, however, as all existing buildings built before the Premises Standards came into force—1 May 2011—continue to be subject to the general no-discrimination provisions of the DDA (and state and territory discrimination laws).

This means that with existing buildings if a person with disability uses a scooter to alleviate the effect of their disability and they cannot get into an existing building using their scooter or cannot move around in the building on their scooter because doors or corridors are too narrow they have a valid discrimination complaint no matter how wide the doorway or how wide their scooter.

In this case, if a complaint could not be resolved through conciliation or agreement between the two parties, the complainant may proceed to formal determination of the complaint. This would require the court or tribunal to consider whether the building owner or operator had a valid defence that making the changes to the building to accommodate the scooter's size and circulation requirements would impose an 'unjustifiable hardship' on them.

An assessment of possible access difficulties in existing buildings and the development of a building upgrade plan to address those difficulties over time would significantly assist in avoiding complaints.