

Discrimination against people with disabilities carries a high price tag

by Donna Scott, Q.C., Chief Commissioner

On December 3rd, people the world over will observe the International Day of Disabled Persons. This special day was set aside by the United Nations General Assembly in 1982 to recognize the need to change attitudes towards persons with disabilities, and eliminate barriers that keep them from fully participating in all aspects of life.

The concerns of persons with disabilities are seldom voiced in the media, yet the 2001 census showed that 14.5 percent of people in Saskatchewan have some form of disability. This means about one in seven Saskatchewan residents have limitations in everyday activities such as working, going to school, travelling, walking, communicating or performing daily tasks at home.

Persons with disabilities encompass all other groups experiencing barriers to equality, such as women, Aboriginal people, and visible minorities. Often, the challenges of dealing with a disability are compounded and magnified for an individual already coping with another set of barriers. Aboriginal people in northern Saskatchewan, for example, may have greater difficulty obtaining disability services than their non-Aboriginal counterparts. A woman who is also a wheelchair user may be especially vulnerable to sexual assault. Moreover, any one of us could become a person with a disability in future because of illness or injury.

Most people are aware of disabilities when they are visually evident or require technical aids, but many disabilities - such as chronic back pain, post-traumatic stress disorder or alcoholism - are invisible. While individuals can minimize the effects of their disability with medication, treatment or supports, some barriers remain out of their control. Building designs, inadequate transportation, inaccessible homes, negative attitudes, and inflexible policies or procedures can create limitations that handicap a person more than the disability itself.

People with disabilities are among those who experience the greatest discrimination. Last year, discrimination based on disability accounted for the largest group of complaints made to the Saskatchewan Human Rights Commission (41.1 percent of all complaints).

In most cases, discrimination based on disability is not intentional. More frequently, it arises from a failure to understand that employers, educators, service providers and others must take all reasonably possible steps to accommodate persons with disabilities, unless accommodation would create undue hardship. The duty to accommodate is based on the principle that it is fundamentally unfair and illegal to exclude people with disabilities from everyday aspects of public life.

Over the past year, the Commission has dealt with a wide range of disability complaints involving education, employment, trade unions, public services and the right to vote. One complaint was settled when a municipality agreed to adopt a range of options for sight-impaired voters that respected their right to vote independently and by secret ballot. Several complaints involved disabilities that were workplace-induced, such as back injuries, tendonitis and chronic pain syndrome. One complaint, against an employer and a union, found that the seniority system itself discriminated against a person with a disability. A tribunal found the collective agreement favoured persons with the flexibility to perform a variety of jobs, and inadvertently made it impossible for the complainant to accrue enough seniority to obtain permanent status in the one position he was able to perform.

Frequently, employers find themselves in conflict with the Saskatchewan Human Rights Code because they do not understand their obligation to explore all options for reaching a reasonable accommodation. A recent settlement of a disability complaint included \$112,000 compensation for loss of wages and pension benefits because an employee was forced to take early retirement as a result of the employer's unwillingness to consider any proposals that would enable the employee to continue working, as he wished to do.

Clearly, discrimination can have serious emotional and financial costs for individuals with disabilities, and for those who discriminate against them. At a broader level, it carries a high price tag for the province as a whole.

In many ways, Saskatchewan's future success will depend on the ability of all groups to participate fully in the social and economic development of their communities. The full inclusion of persons with disabilities requires an understanding of the issues that they face, and a willingness to work with them to develop accommodations that work.