

# Unlawful Discrimination



## Certain types of discriminatory behaviour and activities are unlawful under the *Equal Opportunity Act 1984*.

### The grounds of unlawful discrimination covered by the Act are:

- **Age** – being regarded as too young or old\*
- **Breastfeeding** – or bottle feeding
- **Family responsibility** – having a caring role
- **Family status** – being a relative of a particular person or having the status of being a relative
- **Fines Enforcement Registrar's website** – having personal details published on the Registrar's website
- **Gender history** – having a reassigned gender as under the *Gender Reassignment Act 2000*
- **Impairment** – having a current, past or assumed physical, intellectual or mental disability\*
- **Marital status** – being single, married, de facto, separated, divorced or widowed
- **Political conviction** – including a lack of conviction
- **Pregnancy**
- **Race** – including colour, ethnicity or national origin or descent\*
- **Racial harassment** – offensive or insulting comments or behaviour about a person's race
- **Religious conviction** – including a lack of conviction
- **Sex**
- **Sexual harassment** – including unwelcome requests for sexual favours, touching and comments
- **Sexual orientation** – including heterosexuality, homosexuality, lesbianism, bisexuality or assumed sexual orientation\*

\* Includes discrimination on the ground that a relative or associate has this attribute.

### The areas of public life where the Act can apply are:

- Employment
- Accommodation
- Education
- Provision of goods, services and facilities
- Access to places and vehicles
- Disposal of land or estate
- Clubs
- Application forms
- Advertising
- Superannuation schemes and provident funds
- Insurance
- Sport

\* Some areas do not apply to every ground.

## Direct discrimination

Direct discrimination takes place when a person is treated less favourably than another person, in the same or similar circumstances, on one or more of the grounds and in one of the areas of public life covered by the Act.

## Indirect discrimination

Indirect discrimination is when an apparently neutral rule has a negative effect on considerably more people with a particular attribute or characteristic and the rule is unreasonable in the circumstances.

An example of indirect sex discrimination would be a policy to not employ people who weigh over 80kg, as this effectively excludes a large number of men.

### Disclaimer

The material in this brochure is not intended to be legal advice. The Commissioner expressly disclaims any liability in respect to anything done or not done to any person in reliance upon any of the contents of this publication.

The Government of Western Australia  
[www.wa.gov.au](http://www.wa.gov.au)

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**The Commissioner for Equal Opportunity provides information about the Act, investigates and conciliates complaints, conducts community education and training and develops programs to promote equal opportunity.**

### Other unlawful acts:

#### Victimisation

Victimisation includes threatening, harassing or punishing a person in any way because they have objected about the discriminatory manner in which they have been treated. It applies to anyone who has made a complaint or intends to make a complaint, and anyone giving evidence about a complaint on behalf of another person.

#### Advertisements

It is unlawful to publish or display an advertisement that shows an intention to unlawfully discriminate. This includes television, newspaper and radio advertisements as well as circulars, catalogues and price lists.

#### Spent Convictions Act 1988

The Commissioner for Equal Opportunity can investigate complaints of spent conviction discrimination in the area of employment however certain employers and offences are exempt.

#### Public Interest Disclosure Act 2003

The Commissioner for Equal Opportunity can also investigate complaints of victimisation from people who have made a disclosure under the Public Interest Disclosure Act 2003.

### Making a complaint:

A person who believes they have been discriminated against or harassed can lodge a complaint with the Commissioner. A complaint must be based on a ground and relevant area of the Act. The onus of proof lies with the person making the complaint.

The incident or incidents you are including in your complaint must have occurred within the 12 months previous to the date you lodge your Complaint Form.

In some circumstances the Commissioner may rule there is good reason, or good cause, to include incidents that occurred more than 12 months before the Complaint Form is lodged.

### How to contact the Commission:

#### By telephone

General enquiries: 9216 3900  
Training courses: 9216 3927  
Facsimile: 9216 3960  
County callers: 1800 198 149  
TTY: 9216 3936

#### By email

[eoc@eoc.wa.gov.au](mailto:eoc@eoc.wa.gov.au)

#### By visiting our website

[www.eoc.wa.gov.au](http://www.eoc.wa.gov.au)

#### By visiting our office

Level 2, Westralia Square  
141 St Georges Terrace  
Perth WA 6000

#### By post

PO Box 7370  
Cloisters Square  
Perth WA 6850



An Interpreter can be arranged on request.