



GETTING TO KNOW THE LAW

What does discrimination law say?

In Queensland, you are entitled to be treated fairly and not judged by your sex, race, age or religion, whether you have an impairment or hold certain political beliefs.

The law that prohibits discrimination, sexual harassment, vilification and victimisation is the Queensland *Anti-Discrimination Act 1991*.

How will I know if my treatment is unlawful discrimination?

To be unlawful, your unfair treatment has to be based on two things:

- the reason it happened, and
- what you were doing.

1. It is against the law to treat you unfairly because of your:

- sex
- relationship or parental status
- race
- religious belief or activity
- political belief or activity
- impairment
- trade union activity
- lawful sexual activity
- pregnancy
- breastfeeding needs
- family responsibilities
- gender identity
- sexuality
- age

It's also against the law to treat you unfairly because you are associated with someone from one of these groups.

Example: *You are refused a job because your partner is in hospital recovering from a serious illness and your employer thinks you'll take too much time off work.*

2. The Act covers you while you are working, at school or college, at entertainment venues, at shops,

restaurants or clubs, looking for accommodation, buying property, arranging credit, insurance, superannuation or a loan, or dealing with tradespeople, businesses or state and local government.

Is all unfair treatment against the law?

No. Your treatment may seem unfair, but if it's not based on the reasons and areas covered by the law, the Commission cannot deal with your complaint.

Example: *Despite doing the same work you are paid less than a 22 year old simply because you are a junior. (Not against the law – youth wages exemption.)*

You were treated badly outside of Queensland. (Not against the law – not a ground.)

You are bullied at work. (Bullying is not covered by the Act. The only way the Commission could accept a complaint about bullying is if it is linked to one of the grounds covered by the law.)

If you are bullied, you might want to contact the Division of Workplace Health and Safety (if it concerns health or safety), or the Queensland Industrial Relations Commission (if it's an industrial issue.)

What is meant by 'indirect' discrimination?

Indirect discrimination is not always obvious. A policy or rule may seem fair because it applies to everyone, but a closer look shows that some people are being unfairly affected.

Example: *Your employer has a policy of not letting any staff work part-time. This policy impacts unfairly on you because*

you have young children and can't work full-time.

What is sexual harassment?

Sexual harassment is unwelcome conduct of a sexual nature in relation to you. It happens when a reasonable person would expect that you'd feel humiliated or intimidated by the conduct. It has nothing to do with mutual attraction or friendship between people.

What is vilification?

Vilification is a public act or statement that incites others to hate you or your group because of your race, religion, gender identity or sexuality.

This sort of hatred is illegal and can show up in a number of ways including through leaflets, speech, graffiti, websites, and public abuse or media remarks.

Who is responsible?

The person or people who discriminated against you, asked unnecessary questions, sexually harassed, publicly vilified, or victimised you, are responsible for their own behaviour.

If they did this at work, their employer may also be responsible for allowing it to happen unless they had taken reasonable steps to prevent the offending behaviour. This is called 'vicarious liability'.

Anyone else who encouraged or requested this behaviour is also responsible.

What can I do about it?

You could talk to the person or people involved. Tell them you object to what they are doing, and ask them to stop. Often, this is enough.

If the behaviour happened at work, ask your manager, union representative or contact officer what you might do. If your workplace has a process for dealing with complaints, you could lodge a complaint with your employer.

You could also phone or visit one of our offices. Our staff can give you information about the law and explain how complaints are handled.

How do I make a complaint?

Write down the details of what happened to you in a letter, get a complaint form from our website (www.adcq.qld.gov.au) or call one of our offices for a form.

Include:

- your name, address for service and phone number
- a description of what happened, when and where
- who you are complaining about and
- any other useful information.

Your complaint must be lodged with the Commission within twelve months of the discrimination happening.

The Commission's service is free. However, you may have to pay for any legal or other advice you decide to get.

What happens to my complaint?

Your complaint will be assessed to see if the unfair treatment you describe may be unlawful. If so, we may arrange a meeting with both you and the person or people you've complained about to discuss the issues and try to come to some agreement. The Commission will not take sides or represent anyone.

If you can't agree, the complaint may be referred to the Anti-Discrimination Tribunal, which will hold a public hearing and make a decision based on the evidence.

What else do I need to know?

The Commission runs information sessions and training courses about anti-discrimination law. We also have brochures on a range of discrimination issues.

There are federal laws about these issues. Call the Human Rights and Equal Opportunity Commission on 1300 656 419.