



AGE DISCRIMINATION

It is unlawful under the *Equal Opportunity Act 1984* to treat a person unfairly because of their age.

Direct age discrimination occurs when a person, because of their age or the age of a relative or associate, is treated less favourably than another person in the same or similar circumstances.

Indirect discrimination is when a requirement, condition or practice that is the same for everyone has an unfair effect on someone of a particular age, and is unreasonable in the circumstances.

Where does the protection apply?

Under the Act it is unlawful to discriminate against a person because of their age in certain areas of public life, and they include:

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

Exceptions

There are some instances where it is not unlawful to discriminate against a person because of their age and these include:

- Domestic work in private households
- Accommodation in private households

- Payment of junior wages when prescribed by an award or industrial agreement
- Mature age admission schemes offered by educational institution
- Bona fide benefits or concessions provided to someone of a particular age
- Where the terms and conditions imposed in relation to employment, access and the provision of goods, services or facilities comply with reasonable health and safety considerations
- Offering voluntary retirement to someone of a particular age
- The retirement of a judge, master, district or family court judge, magistrate or stipendiary magistrate, president or commissioner or solicitor-general
- A contract with a minor if that contract is unenforceable at common law
- Measures intended to achieve equality
- A genuine occupational qualification
- Acts done in compliance with a written law of Western Australia
- Superannuation and insurance, if based on reasonable data and statistical evidence
- Disposal of land within a residential complex intended for persons of a particular age, for example in a retirement village
- The provision of charitable benefits
- Admission as a member, and benefits provided to members, of an unincorporated body
- Establishments providing accommodation for aged people.

If an individual or organisation relies upon an exception under the Act when a complaint is made against them, they must justify the use of that exception to the Commissioner for Equal Opportunity.

Responsibilities

Organisations must ensure they provide a working environment, plus services, free from sex discrimination.

Organisations are liable for the unlawful action/s of their employees unless they can show they have taken all reasonable steps to prevent discrimination.

Section 160 of the Act

A person who causes, instructs, induces, aids or permits another person to do something that is unlawful under the Act shall, for the purposes of the Act, be taken to have done the act.

How to Lodge a Complaint

A person who believes they have been discriminated against on the grounds of their age can lodge a complaint with the Commissioner. The onus of proof lies with the person making the complaint. The complaint must be lodged within 12 months of the last incident of discrimination however, in some circumstances, the Commissioner may rule there is good reason to accept a complaint that falls outside the 12 month time frame.

Examples of Age Discrimination

*After being asked for, and providing, her age during a job interview a woman did not get the job because the employer said he wanted a younger person for the position.

*A restaurant advertised it would not serve children under 12 years of age.

*A 22-year-old's application for a bank loan was refused and when she asked why she was told "...because people under the age of 24 are financially unstable".

*A car rental business refused a car rental to an 81-year-old woman because the company's insurer would not insure a driver over the age of 80.

*An employer refused to consider job applications from people over the age of 40 because "... they can't learn new skills".

*A couple and their 12-month-old baby were denied access to a restaurant because the manager said the baby would disturb other diners. The couple lodged a complaint of unlawful discrimination on the ground of the age of a relative, their child.

The Commissioner for Equal Opportunity provides information about the Act, investigates complaints and conducts community education and training services.

How to Contact the Commission

By telephone	
General enquiries	08 9216 3900
Training courses	08 9216 3927
Facsimile	08 9216 3960
Country callers	1800 198 149
TTY	08 9216 3936
Interpreter services	13 14 50

By e-mail
eoc@eoc.wa.gov.au

By visiting our website
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

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