



FAMILY RESPONSIBILITY AND FAMILY STATUS

It is unlawful under the *Equal Opportunity Act 1984* to discriminate against a person because of their family responsibility or family status.

The Act defines family responsibility as being responsible for the care of another person, whether or not that person is a dependant, but does not include someone who is paid to care for that person.

Family status means the status of being a particular relative or the status of being a relative of a particular person.

Being a relative can mean by blood, marriage, affinity or adoption and includes someone wholly or mainly dependant on a particular person, or a member of that person's household.

Direct discrimination occurs when someone with a particular family responsibility or family status is treated less favourably than someone without that family responsibility or family status, 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 because of their family responsibility or family status, and is unreasonable in the circumstances.

Where does the Act apply?

Under the Act it is unlawful to discriminate against a person because of their family responsibility or family status in certain areas of public life and these areas include: employment, in some instances; education; application forms and advertisements.

Exceptions

There are some instances where it is not unlawful to discriminate against a person because of their family responsibility or family status, and these exceptions include:

- Domestic workers within private households
- Bona fide educational benefits, including concessions
- Rights or privileges granted to a person with a particular family responsibility or family status
- Measures intended to meet special needs
- Accommodation provided for employees
- Identity of a relative - where collusion would result in business disadvantage
- Orders of courts and tribunals
- The provision of charitable benefits
- Voluntary bodies – admissions and benefits
- The ordination of priests or ministers of religion.

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 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.

Liability

A person who causes, instructs, induces, aids or permits another person to do something that is unlawful under section 160 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 family responsibility or family status 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 Family Responsibility Discrimination

- An educational institution did not accept the need to care for a sick child as a valid reason for a student being unable to meet an assignment deadline.
- **An employee with a child was required to work at times that were incompatible with her child care arrangements, although her employer could have been flexible without there being a detriment to the business.**
- After being employed by the same company for ten years, an employee's wife was diagnosed with an illness that required intermittent hospitalisation and he took time off work to care for her. During an interview for an internal promotion his wife's illness was raised and he did not receive the promotion.

Examples of Family Status Discrimination

*A woman was refused employment because she was married to a man with a criminal conviction.

*A man was refused employment because a family member was already employed by the same organisation.

*New directors took over a company that had been established by a husband and wife team, then sacked the wife after she separated from her husband.

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 email

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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