

RELIGIOUS AND POLITICAL CONVICTION

It is unlawful under the *Equal Opportunity Act 1984* to discriminate against a person because of their religious or political conviction.

Direct religious or political conviction discrimination

occurs when someone with (or without) a religious or political conviction is treated less favourably than someone without (or with) that religious or political conviction, in the same or similar circumstances.

Indirect religious or political conviction discrimination

is when a requirement, condition or practice that is the same for everyone has a greater effect on someone because of their religious or political conviction (or lack of) when compared to a person not of that religious or political conviction 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 religious or political conviction in certain areas of public life, and they include:

- Employment
- Education
- Provision of goods, services and facilities
- Accommodation
- Clubs
- Application forms.

Exceptions

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

- Domestic workers in private households
- Employers with less than six employees
- Accommodation provided by a religious body
- Accommodation in private households of less than five people
- Partnerships of less than six people
- Orders of a court or the State Administrative Tribunal
- The provision of charitable benefits
- Voluntary bodies – admissions and benefits
- Establishments providing accommodation for aged people
- The ordination of priests or ministers of religion
- Employment, education or training by a religious educational authority that discriminates in good faith in order to adhere to its religious teachings
- Employment in a hospital or where a health related service is provided, where the employer is a religious body and duties relate to any religious observance or practice
- When offering employment to a person within the meaning of the *Electoral Act 1907*, or as a ministerial adviser or officer, employee or worker for a political party, member of the electoral staff of another person or in other similar employment or work (political conviction only).

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 religious or political 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 religious or political conviction 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 Religious Conviction Discrimination

A Muslim prisoner complained that Halal food was not available to him at every meal time.

A public transport worker who was a Seventh Day Adventist complained he was indirectly discriminated against when he was rostered to work on Saturdays, his Sabbath.

Example of Political Conviction Discrimination

*A local government councillor applied for a vacancy within his local government authority and the interviewing panel unanimously recommended him for the position. Members of the interviewing panel then developed reservations based on the applicant's political affiliations – he had stood for parliament during a recent State election – and the matter was brought before a special council meeting and not before a full council meeting as was the correct

procedure. During this meeting it was decided to readvertise the position, and it eventually was awarded to another applicant. The Equal Opportunity Tribunal found the council had discriminated against him on the basis of his political affiliation.

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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