

## SEX DISCRIMINATION

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

Sex discrimination is one of the most common forms of discrimination and **direct sex discrimination** occurs when a person of one sex is treated less favourably than a person of the other sex, because of their sex, in the same or similar circumstances.

**Indirect discrimination** takes place when an apparently neutral rule has a negative effect on a substantially higher proportion of people of one sex, compared to people of the other sex, and the rule is unreasonable in the circumstances.

### Where does the protection apply?

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

- Employment
- Education
- Access to places and vehicles
- Provision of goods, services and facilities
- Accommodation
- Disposition of land
- Clubs
- Application forms
- Advertisements
- Insurance - in some instances
- Sport - in some instances.

### Exceptions

There are some instances where it is not unlawful to discriminate against a person because of their sex under the Act, and these exceptions include:

- Measures intended to create equality or meet special needs
- Domestic workers in private households
- Genuine occupational qualification

- Competitive sport where strength, stamina or physique is relevant
- Single sex accommodation, clubs or services
- Residential care of children
- Insurance, if based on reasonable data and statistical evidence
- Application forms requesting information about a sex-based medical condition
- Accommodation in private households
- Accommodation provided by religious, Charitable or voluntary bodies
- Disposal of land or estate by will or gift
- The provision of charitable benefits
- Admission as a member of a voluntary organisation
- Establishments providing accommodation for aged people
- Employment, education or training at a religious educational institution
- 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 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 an act 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 sex 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.

The Commissioner tries to resolve complaints by conciliation. In some cases complaints may be dismissed if they lack substance.

## Examples of Discrimination

A man complained he was discriminated against at a nightclub because men were charged a \$3 entry fee while women were allowed in free.

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A woman applied for a position at a factory but was told all staff in the factory were males and all facilities were for males only. She was told it would be useless for her to apply for the job because she was a female.

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An offer of employment to a male midwife was withdrawn after female midwives refused to accept a man into their work area.

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A female parking inspector was subjected to gender-based comments by her colleagues and supervisor, and her employer took no steps to resolve the issue.

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A young man applied for a job as a supermarket checkout operator and was told it was a job for a woman.

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A young woman was refused a mechanical fitter's apprenticeship because it was assumed she wouldn't be able to do the heavy mechanical work.

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](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

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