



BREASTFEEDING DISCRIMINATION

It is unlawful under the *Equal Opportunity Amendment Act 2010* to discriminate against a person who is breastfeeding or bottle feeding

Direct sex discrimination occurs when a person breastfeeding or bottle feeding is treated less favourably than a person who is not breastfeeding or bottle feeding.

Indirect discrimination takes place when an apparently neutral rule has a negative effect on a substantially higher proportion of people who are breastfeeding or bottle feeding, compared to people who are not 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 they are breastfeeding or bottle feeding.

- Employment
- Education
- Access to places and vehicles
- Provision of goods, services and facilities
- Accommodation
- Disposition of land
- Clubs
- Application forms

Exceptions

There are some instances where it is not unlawful to discriminate against a person because they are breastfeeding or bottle feeding under the Act, these exceptions include:

- Measures intended to meet special needs
- Rights or privileges granted to a person in connection with breastfeeding
- Orders of courts or tribunals
- Provision of charitable 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 and services free from breastfeeding 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.

Under 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 breastfeeding 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 Breastfeeding or Bottle feeding Discrimination

A woman was having dinner with friends and family at a restaurant when she asked a waitress to direct her to a more private area of the restaurant so she could breastfeed her baby. The waitress told the woman she would have to leave the restaurant if she wanted to breastfeed the baby.

A breastfeeding mother attended a community centre and at that time breastfed her child. When she returned to the centre, after paying her entry fee, a staff member took her aside and told her last time there had been complaints made about her breastfeeding around the other children and if she wanted to breastfeed this time she would have to use another room.

A breastfeeding woman needed to bring her baby into her office to breastfeed him, however she was prevented from doing so because the baby was considered a 'visitor' and the office had a policy of not allowing visitors into the office during set hours, which included the times she needed to breastfeed.

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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