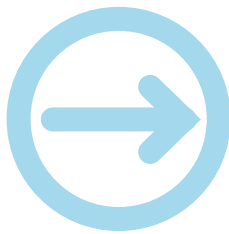




breastfeeding discrimination



What is breastfeeding discrimination?

The Tasmanian *Anti-Discrimination Act* 1998 (“the Act”) prohibits discrimination on the basis of breastfeeding. Breastfeeding discrimination occurs when a woman is treated less favourably than another person because she is breastfeeding.

Example

Julia goes to a restaurant for her birthday. During the dinner, Julia begins breastfeeding her baby Rafael. Julia is requested by the owner of the restaurant to breastfeed outside away from other diners. There is no seating or safe place to breastfeed outside. Julia is very upset by this, so she decides to lodge a complaint of discrimination on the basis of breastfeeding.

Where is it unlawful to discriminate?

The Act prohibits breastfeeding discrimination in the following areas:

Employment - this includes paid or unpaid, casual, permanent or temporary employment.

Education and Training - at schools, colleges, universities or other educational institutions where education and training is provided.

Provision of facilities, goods and services – this includes access and use of public places, transportation and travel and private or government service providers.

Accommodation – this includes residential housing and business accommodation i.e. rental property, hotel, motel, boarding house or caravan.

Membership and activities of clubs – being a member of a club and participating in activities associated with the club.

Administration of any law of the State or any State program.

Awards, enterprise agreements or industrial agreements.

Example of indirect discrimination
Anna works as an Accountant. Her workplace has a policy that excludes visitors from entering workers' offices during set hours. Anna is breastfeeding and often needs to bring her baby, Tim, into her office outside these hours (but still during break times) to breastfeed him. Anna is prevented from bringing Tim into her office because Tim is considered a 'visitor'. This policy may disadvantage breastfeeding mothers who cannot meet the requirement to breastfeed at set times. The policy may also be unreasonable in the circumstances.

Contact Us

To lodge a complaint or seek further information, contact the office or visit the website. Please note the office is unable to provide legal advice to parties of a complaint.

Office of the Anti-Discrimination Commissioner
Level 1, 54 Victoria Street, Hobart, Tasmania 7000
GPO Box 197, Hobart, Tasmania 7001

Telephone **1300 305 062 (local call)**
(03) 6233 4841

Facsimile **(03) 6233 5333**

TTY **(03) 6233 3122**

Email **antidiscrimination@justice.tas.gov.au**

www.antidiscrimination.tas.gov.au

Disclaimer: This information is intended to provide a general understanding of the Anti-Discrimination Act 1998. To maintain confidentiality case examples are not based on actual complaints lodged with this office.

Direct discrimination

Direct discrimination takes place if a person treats another person on the basis of breastfeeding, or imputed breastfeeding, less favourably than a person who is not breastfeeding or does not have a characteristic associated with breastfeeding.

For direct discrimination to take place it is not necessary that:

- Breastfeeding be the sole or dominant ground for the unfavourable treatment; or
- The person who discriminates regards the treatment as unfavourable; or
- The person who discriminates has any particular motive in discriminating.

Indirect discrimination

Indirect discrimination takes place if a person imposes a condition, requirement or practice, which is unreasonable in the circumstances and has the effect of disadvantaging a member of a group of people who share the attribute of breastfeeding more than a person who is not a member of that group.

When is it lawful to discriminate?

In certain circumstances discrimination on the basis of breastfeeding is permitted.

A person may discriminate against another person on the ground of breastfeeding if that other person requires special services and facilities the supply of which would impose unjustifiable hardship.

Example of direct discrimination
Ellen expresses milk during her scheduled breaks at work and safely stores the bottles in the fridge. All workers in her area use the fridge. While at work, Vincent makes inappropriate remarks to Ellen about the expressed milk being stored in the fridge and complains to his boss about it. Ellen feels humiliated and insulted by Vincent's behaviour and decides to lodge a complaint of discrimination on the basis of breastfeeding.

Where a person/organisation argues that it should be exempt from the requirements of the Act because an exception applies, the onus is on the person relying on the exception to prove that the exception applies.

If you are unsure whether your complaint involves breastfeeding discrimination, you can contact the Office of the Anti-Discrimination Commissioner and/or arrange an appointment with an Investigation Officer.

Please note that additional information is available on prohibited conduct on the basis of breastfeeding.

Education and Training

The Office of the Anti-Discrimination Commissioner provides training and education on discrimination and prohibited conduct covered by the Act.

For more information on training see our Education and Training brochure or contact our training staff to discuss your training and education needs.

Please advise the office prior to an appointment if you require special assistance or the services of an Interpreter/Auslan.