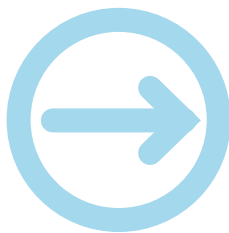




family responsibilities discrimination



What is family responsibilities discrimination?

The Tasmanian *Anti-Discrimination Act 1998* (“the Act”) prohibits discrimination on the basis of family responsibilities. Family responsibilities discrimination occurs when someone is treated less favourably than another person because of his or her actual or imputed family responsibilities.

Family responsibilities means responsibilities to care for or support –

- A child who is wholly or substantially dependent; or
- Any other immediate family member who is in need of that care or support.

Immediate family member includes –

- A spouse or partner of the person; and
- An adult offspring, a child, parent, grandparent, grandchild or sibling of the person or of a spouse or partner of the person.

Please note that there are other family members that could be considered to be immediate family members that are not included in this list.

Where is it unlawful to discriminate?

The Act prohibits family responsibilities 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.

Direct discrimination

Direct family responsibilities discrimination takes place if a person treats another person on the basis of their family responsibilities, or imputed family responsibilities, less favourably than a person without that attribute or characteristic.

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

- Family responsibilities be the sole or dominant ground for the unfavourable treatment; or

Example

A shift worker was refused his request to temporarily alter his roster so that he could care for his young daughter, who was ill. The nature of the workplace meant that the employer could have accommodated the request without any difficulty. This may be direct discrimination on the ground of family responsibilities.

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

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

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.

- 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 a particular attribute (family responsibilities) more than a person who is not a member of that group.

Best Practice

If you are an employer, an educational institution or an organisation, you should:

- Be flexible with employees/students/clients who have sick children or elderly parents/relatives. In many cases people caring for family members need to stay home and care for them when they are ill. This may result in additional sick leave. It is important to be reasonable in these circumstances.
- Be flexible with employees/students/clients who are single parents (either mothers or fathers) and therefore may have sole responsibility of a child.
- Not discriminate against mothers who choose to work instead of staying home to take care of children or other dependants.
- Not discriminate against fathers who choose to stay at home to care for children or other dependants.
- Not believe that young children are the only family reasons requiring flexibility. Elderly relatives and adult children with a disability also have legitimate needs.
- Not ask prospective employees/students in interviews about their plans for having children or whether they have family responsibilities. This information is not relevant to a person's ability to perform the job or undertake a course.

Alternatives

There are many ways family responsibilities can be accommodated in the workforce. Flexibility in hours/shifts etc can be beneficial to the employer and the employee as it usually results in flexibility across the board, providing other employees with opportunities to work.

Consider job-share. This enables two employees to work part-time, sharing the same job.

If possible, where the nature of the role and operational requirements permit, allow a person to work from home. Someone with children may find it much easier to work from home as it cuts down on the need to find childcare arrangements. Do not assume that people at home will not 'do the work'. Often, people are more productive in environments with which they are comfortable. It is worth noting that performance measures apply equally to employees working from home as they apply to employees in the workplace.

When is it lawful to discriminate?

In certain circumstances family responsibilities discrimination is permitted. The following exception applies:

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

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

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