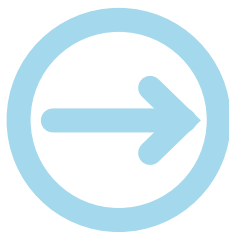




# gender discrimination



## What is gender discrimination?

Gender discrimination occurs when someone is treated less favourably than another person because of his or her gender. All people are protected under the Tasmanian *Anti-Discrimination Act 1998* (“the Act”) against gender discrimination, and it does not matter whether it is a person of the same gender that engages in gender discrimination, it is still against the law.

### Example

Jacob applies for a position as a child carer. Jacob felt intimidated and embarrassed by questions from the interviewer, Helen, about how parents would feel leaving their child in the care of a man. Jacob is unsuccessful at gaining the position and decides to lodge a complaint of gender discrimination.

Example of direct discrimination  
Sofia is not given a job as a tradesperson because it is a predominately male workplace and the supervisor was concerned she would be subjected to sexist remarks. This may be discrimination on the basis of gender because Sofia has missed out on the job because she is female .

## Where is it unlawful to discriminate?

The Act prohibits gender 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 lawful discrimination  
An organisation advertises a position for a male counsellor to work with a group of disadvantaged young men.

If you are unsure whether your complaint involves gender 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 gender.

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

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

- Gender 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 a particular attribute (gender) more than a person who is not a member of that group (i.e. person of the opposite gender).

Example of indirect discrimination  
**Height requirements — jobs that have height requirements may disadvantage women more so than men, or men more so than women (depending on whether it is a requirement to be above or below a certain height) because women on average are shorter than men. Whether or not a height requirement is unreasonable would depend on factors such as whether it was necessary to perform the job because of safety considerations etc.**

## When is it lawful to discriminate?

In certain circumstances gender discrimination is permitted. The following exceptions apply:

- A person may discriminate against another person on the ground of gender –
- (a) in a religious institution, if it is required by the doctrines of the religion of the institution; or
  - (b) in education, if it is for the purpose of enrolment in one-gender schools or hostels; or
  - (c) in employment, if it is for the purpose of the residential care of persons under the age of 18 years; or
  - (d) in employment, if it is based on a genuine occupational qualification or requirement in relation to a particular position; or
  - (e) in accommodation, if it is shared accommodation for less than 5 adult persons; or
  - (f) in the provision or use of facilities, if those facilities are reasonably required for use by persons of one gender only.

A person may discriminate against another person on the ground of gender in respect of the use of any benefit provided by a club if –

- (a) it is not practicable for the benefit to be used simultaneously or to the same extent by both men and women; and
- (b) the benefit is provided –
  - (i) for the use of men and women separately from each other; or
  - (ii) to men and women in a fair and reasonable proportion.

A person may discriminate against another person on the ground of gender in respect of membership of a club if the membership of the club is available only to persons of one gender.

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.