



political belief or affiliation & political activity discrimination



What is political belief or affiliation & political activity discrimination?

The Tasmanian *Anti-Discrimination Act 1998* (“the Act”) prohibits discrimination on the basis of political belief or affiliation and political activity. Discrimination on the basis of political belief or affiliation and political activity occurs when someone is treated less favourably than another person because of his or her political belief or affiliation or political activity.

Example of direct discrimination

While at work Andrew encounters harassment and derogatory comments regarding whom he voted for in the last election. Voting at an election is engaging in political activity and may reflect a person’s political beliefs. Andrew could lodge a complaint of discrimination on the basis of political belief or affiliation and political activity.

Where is it unlawful to discriminate?

The Act prohibits political belief or affiliation and political activity 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.

Direct discrimination

Direct discrimination takes place if a person treats another person on the basis of political belief or affiliation and political activity, or imputed political belief or affiliation and political activity, less favourably than a person without those attribute/s or characteristic/s.

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

- Political belief or affiliation or political activity 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.

Example of indirect discrimination
In the case of *Lindisfarne R & S L A Sub-Branch and Citizen's Club Inc & Anor v Buchanan* [2004] TASSC 73, the Supreme Court held that a requirement for applicants to a club to swear allegiance to the Queen disadvantaged the group of people who had a republican political belief.

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/s of political belief or affiliation or political activity 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 political belief or affiliation and political activity is permitted.

A person may discriminate against another person on the ground of political belief or activity in the employment of a person as a member of staff of a political party, an advisor to a Minister, a member of the electorate staff of a person or in any other similar position.

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.

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

Example of lawful discrimination
Brenda applies for a position as a member of staff with a political party. Brenda is refused the job because she does not share the beliefs of the party and is in fact a member of a rival political party. If Brenda made a complaint of discrimination, the political party may be able to rely on this exception in not offering her the job.

Education and Training

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

Free Community Education sessions are available for not for profit organisations, schools and community groups.

Corporate Training can be tailored to suit any organisation to meet the needs of its employees including Managers and Supervisors to create a discrimination and harassment free workplace environment.

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

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.

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Telephone **1300 305 062 (local call)**
(03) 6233 4841
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TTY **(03) 6233 3122**
Email **antidiscrimination@justice.tas.gov.au**

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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.

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