

Discrimination

Anyone can talk to a lawyer for free at Tasmania Legal Aid.

To get free legal information call 1300 366 611 or drop into our Hobart or Launceston office. You don't need to make an appointment. We are open Monday to Friday, 8.45am to 5pm.

A lawyer can listen to your story and help identify the next steps you can take.

If you are treated differently or unfairly because of who you are, it might be because you are experiencing discrimination.

What is discrimination?

Discrimination is when you are treated unfairly or differently than other people because of a particular personal characteristic (called 'attributes' by the law) while you are doing certain things (called an 'activity').

Discrimination can be direct or indirect. Direct discrimination is when you are treated unfairly or differently because of a protected attribute (e.g. your disability, age or gender). Indirect discrimination is when a policy or practice means a group of people who share a protected attribute may be excluded or treated unfairly (e.g. an office rule that says no one is allowed to wear headdresses could indirectly discriminate against people who may wear religious headwear like hijabs or kippahs).

What are the different types of discrimination?

The law in Tasmania sets out what 'attributes' are protected. These are:

- Age
- Race
- Disability
- Irrelevant medical record
- Gender
- Gender identity
- Intersex variations of sex characteristics
- Breastfeeding
- Pregnancy
- Sexual orientation
- Relationship status
- Lawful sexual activity
- Marital status
- Family responsibilities
- Parental status
- Irrelevant criminal record
- Religious belief or affiliation
- Religious activity
- Political belief or affiliation
- Political activity
- Industrial activity
- Association with a person who has or is believed to have any of the other attributes.

The Australian Human Rights Commission has [examples](#) of what discrimination against each of these 'protected attributes' looks like.

Where am I protected from discrimination?

The law sets out in what circumstances you can't be treated less favourably. These are called 'activities'. This means it is against the law if you are discriminated against:

- At your work, including when applying for jobs
- At school, TAFE, university or in other training
- When you're shopping or using services such as banks
- When renting or trying to rent
- When you are participating in sports or clubs
- When you are using government services such as public transport or the hospital
- When you're accessing public premises such as government offices, hospitals, restaurants or places of worship
- When you're participating in the legal system.

If someone's behaviour is making you feel unsafe, whether or not it is occurring in a protected activity, you should contact the police for support.

What if I am being discriminated against online?

If you are being discriminated against online, you can report this to the eSafety Commissioner. For more information, check out our [Online Hate](#) page.

Are there times when it is legal to discriminate?

There may be times when the law says an employer, charity or program can discriminate. The law is very clear about when this can happen. An example of this might be a competitive sports club separating events by age and gender, or a charity only providing services to people with a particular disability.

If you are looking for more information on when this discrimination may be allowed under the law, the [Office of the Anti-Discrimination Commissioner has more information](#).

How do I make a complaint?

If you believe that you have been discriminated against in Tasmania, regardless of if you are a Tasmanian resident, you should talk with [Office of the Anti-Discrimination Commissioner](#) (previously known as the Equal Opportunity Tasmania). This complaint needs to be made within 12 months of the discrimination occurring. There is no fee to lodge a complaint, and you can make a complaint if you are under 18.

If the discrimination happened in a Commonwealth building, while accessing a Commonwealth service or if a person is working at (or applying to work at) a Commonwealth Department then the complaint should be directed to the [Australian Human Rights Commission](#).

What happens if I file a complaint?

When you lodge a complaint, the Office may invite you and the person you made the complaint about to a *conciliation* if your complaint is accepted for investigation. This is a private, confidential meeting where you can discuss the complaint and try to reach an agreement. For example, you might believe you were being discriminated against because your workplace was taking steps to replace you after leave you had taken due to your disability. At a conciliation conference, your workplace may agree to a return-to-work plan for you, and accommodations moving forward so you can continue to work with them.

If a complaint cannot be resolved through conciliation, the Office of the Anti-Discrimination Commissioner may refer the matter on to [TASCAT](#). TASCAT will then hold a hearing and decide if what happened was discrimination. If it was discrimination, the Tribunal can make orders such as:

- You be re-employed, if the discrimination affected your employment
- You be paid compensation
- The person who discriminated against you apologies to you and/or pays a fine
- The person who discriminated against you must stop discriminating against you and must make sure it doesn't happen again (to you or someone else).

This is written for people who live in or who are affected by the laws of Tasmania, Australia. The law changes all the time – this information is not legal advice. If you have a legal problem, you should talk to a lawyer before making a decision about what to do.