

# Political Conviction Discrimination

It is unlawful under the *Equal Opportunity Act 1984* (the Act) to discriminate against a person because of their political conviction.



*Equal Opportunity Commission*



## Direct political conviction discrimination

Direct discrimination takes place when a person is treated less favourably than another person because of their political conviction, in the same or similar circumstances, and in one of the areas of public life covered by the Act.

## Indirect political conviction discrimination

Indirect political conviction discrimination is when an apparently neutral rule has a negative effect on considerably more people of a particular political conviction compared to people without that attribute and the rule is unreasonable in the circumstances.

## Where does the protection apply?

Under the Act it is unlawful to discriminate against a person because of their political conviction in certain areas of public life, including:

- Work
- Education
- Provision of goods, services and facilities
- Accommodation
- Clubs
- Application forms.

## Responsibilities

Organisations must ensure they provide a working environment and services that are free from political conviction discrimination and they must take all reasonable steps to prevent it from happening or they may be held responsible for their employees' actions.

A person causing, instructing, inducing, helping or permitting another person to do something unlawful is the same as doing it, for the purpose of the Act.

## Making a complaint

A person who believes they have been discriminated against because of their political conviction can lodge a complaint with the Western Australian Equal Opportunity Commissioner (the Commissioner). The onus of proof lies with the person making the complaint.

The incident or incidents in the complaint must have occurred within the 12 months previous to the date you lodge your complaint.

In some circumstances the Commissioner may decide that there is good reason, or good cause, to include incidents that occurred more than 12 months before the complaint is lodged.

The Commissioner for Equal Opportunity provides information about the Act, investigates and attempts to conciliate complaints, conducts community education and training and develops programs to promote equal opportunity.

### Example of political conviction discrimination

A local government councilor applied for a vacancy within his local government authority and the interviewing panel unanimously recommended him for the position. Members of the interviewing panel then developed reservations based on the applicant's political conviction. During this meeting it was decided to re-advertise the position, and it eventually was awarded to another applicant. The Equal Opportunity Tribunal found the council had discriminated against him on the basis of his political affiliation.

### Exceptions

There are some instances where it is not unlawful to discriminate against a person because of their political conviction, and these exceptions include:

- Domestic workers in private households
- Employers with less than six employees
- Accommodation in private households of less than five people
- Partnerships of less than six people
- Orders of a court or the State Administrative Tribunal
- The provision of charitable benefits
- Voluntary bodies – admissions and benefits
- Establishments providing accommodation for aged people
- When offering employment to a person within the meaning of the *Electoral Act 1907*, or as a ministerial adviser or officer, employee or worker for a political party, member of the electoral staff of another person or in other similar employment or work

If an individual or organisation relies upon an exception under the Act when a complaint is made against them, they must justify the use of that exception to the Commissioner for Equal Opportunity.

#### Disclaimer

The material in this brochure is not intended to be legal advice. The Commissioner expressly disclaims any liability in respect to anything done or not done to any person in reliance upon any of the contents of this publication.

The Government of Western Australia  
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