

Breastfeeding Discrimination

It is against the law under the Equal Opportunity Act 1984 (WA) to discriminate against a person due to breastfeeding.



 *Equal Opportunity Commission*

Direct breastfeeding discrimination occurs when a person is treated less favourably because of breastfeeding or bottle-feeding, compared to another person who is not breastfeeding, in the same or similar circumstances.

Indirect breastfeeding discrimination is when a requirement, condition or practice that is the same for everyone has an unfair effect on someone who is breastfeeding or bottle-feeding, and is unreasonable in the circumstances.

Where does the protection apply?

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

- Work
- Education
- Access to places and vehicles
- Provision of goods, services and facilities
- Accommodation
- Disposal of land or estate
- Clubs
- Application forms – subject to exception.

Responsibilities

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

For the purposes of the Act, a person who causes, instructs, persuades, aids, or permits another person to engage in unlawful conduct is taken to have engaged in that conduct themselves.

Making a complaint

A person who believes they have been discriminated against because of breastfeeding or bottle-feeding can lodge a complaint with the Commissioner. The onus of proof lies with the person making the complaint.

Complaints must be submitted in writing, but you are not required to use English. You may write your complaint in the language you feel most comfortable using.

The incident or incidents referred to in the complaint must have occurred within the 12 months prior to the date the complaint is lodged.

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

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

Examples of breastfeeding discrimination

A woman was having dinner with friends and family at a restaurant when she asked a waitress to direct her to a more private area of the restaurant so she could breastfeed her baby. The waitress told the woman she would have to leave the restaurant if she wanted to breastfeed the baby.

A mother previously attended a community centre and breastfed her child. When she returned to the centre, after paying her entry fee, a staff member took her aside and told her there had been complaints about her breastfeeding around the other children and if she wanted to breastfeed this time she would have to use another room.

A breastfeeding woman needed to bring her baby into her office to breastfeed him, however she was prevented from doing so because the baby was considered a 'visitor' and the office had a policy of not allowing visitors into the office during set hours, which included the times she needed to breastfeed.

Exceptions

There are some instances where it is not unlawful to discriminate against a person because they breastfeed, or bottle-feed and these exceptions include:

- Measures intended to meet special needs
- Rights or privileges granted to a person in connection with breastfeeding
- Orders of courts and tribunals
- The provision of charitable benefits
- Voluntary bodies – admissions and benefits
- The ordination of priests or ministers of religion.


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.

Call

General enquiries: 08 9216 3900


Training courses: 08 9216 3927

Country callers: 1800 198 149

 **Interpreter service:** 13 14 50

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