

Family Responsibility Discrimination

It is against the law under the Equal Opportunity Act 1984 (WA) to discriminate against a person because of their family responsibility.



 *Equal Opportunity Commission*

The Equal Opportunity Act 1984 (WA) (the Act) defines family responsibility as being responsible for the care of another person, whether or not that person is a dependent, but does not include someone who is paid to care for that person.

Direct family responsibility discrimination occurs when a person is treated less favourably because of their family responsibility, compared to another person in the same or similar circumstances.

Indirect family responsibility discrimination is when a requirement, condition or practice that is the same for everyone has an unfair effect on someone because of their family responsibility, and is unreasonable in the circumstances.

Where does the protection apply?

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

- Work – in some instances
- Education
- Application forms
- Advertisements

Responsibilities

Organisations must ensure they provide a working environment and services that are free from family responsibility 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 their family responsibility 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.

Complaints can be submitted via email, post, or through the complaint form on the Equal Opportunity Commission's website.

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

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 family responsibility discrimination

An educational institution did not accept the need to care for a sick child as a valid reason for a student being unable to meet an assignment deadline.

An employee with a child was required to work at times that were incompatible with her child care arrangements, although her employer could have been flexible without there being a detriment to the business.

After being employed by the same company for ten years, an employee's wife was diagnosed with an illness that required intermittent hospitalisation and he took time off work to care for her. During an interview for an internal promotion his wife's illness was raised and he did not receive the promotion.

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.

Exceptions


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

- Domestic workers within private households
- Bona fide educational benefits, including concessions
- Rights or privileges granted to a person with a particular family responsibility
- Measures intended to meet special needs
- Accommodation provided for employees
- Identity of a relative – where collusion would result in business disadvantage
- 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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