

Family Status Discrimination

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



 *Equal Opportunity Commission*

The Equal Opportunity Act 1984 (WA) (the Act) defines family status as being a relative of a particular person. Being a relative can mean by blood, marriage, affinity or adoption and includes someone wholly or mainly dependent on a particular person, or a member of that person's household.

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

Indirect family status discrimination is when a requirement, condition or practice that is the same for everyone has an unfair effect on someone with a particular family status, 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 age in certain areas of public life, including:

- Work
- Education
- Application forms
- Advertisements

Responsibilities

Organisations must ensure they provide a working environment and services that are free from family status 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 status 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 family status discrimination

A woman was refused employment because she was married to a man with a criminal conviction.

A man was refused employment because a family member was already employed by the same organisation.

New directors took over a company that had been established by a husband and wife team, then dismissed the wife after she separated from her husband.

Exceptions

There are some instances where it is not unlawful to discriminate against a person because of their family status. These exceptions include:

- Domestic workers within private households
- Genuine educational benefits, including concessions
- Rights or privileges granted to a person with a particular family status
- 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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