



# PREGNANCY, PARENTAL AND MARITAL DISCRIMINATION

## What is Pregnancy, Parental or Marital Discrimination?

Under the Victorian Equal Opportunity Act 1995, it is unlawful to discriminate against someone or treat them unfairly because of their:

### ■ PREGNANCY

Or because she is a woman and therefore capable of becoming pregnant.

### ■ PARENTAL STATUS

This includes being a stepparent, adoptive parent, foster parent or guardian.

### ■ MARITAL STATUS

This includes being single, married, divorced, widowed, being in a de facto relationship or married but separated.

Discrimination on the basis of pregnancy or parental or marital status may be **direct** or **indirect**.

**Direct** discrimination on the basis of pregnancy or parental or marital status means treating a person less favourably than a person who is not pregnant or who has a different parental or marital status.

*For example, an organisation wished to employ an office manager but refused to employ Savanna because she has two children, even though she was the best person for the job. This is **direct discrimination** on the basis of parental status.*

**Indirect** discrimination happens when a requirement, condition or practice which does not appear to be unfair, in fact does discriminate against people who are pregnant or who have a different parental or marital status.

*A requirement that long service leave will only be granted to persons who have 10 years of uninterrupted employment with a company, may **indirectly** discriminate against parents who are more likely to have taken time off to have and/or care for children.*

## Where is Discrimination on the basis of Pregnancy, Parental or Marital status unlawful?

It is unlawful to discriminate on the basis of a person's pregnancy or parental or marital status in the areas of:

### ■ ACCOMMODATION

which covers renting, buying, offering or providing temporary or permanent accommodation such as business premises, a house, flat, hotel or motel room, boarding house or hostel, caravan, mobile home or camping site.

*Ben and Lisa, a defacto couple, were refused accommodation because the landlord only wanted to rent to a married couple. Ben and Lisa may lodge a complaint. Negotiated outcomes at a conciliation conference could include an apology and an undertaking by the landlord to rent the place to them.*

### ■ CLUBS & CLUB MEMBERS

which covers social, recreational, sporting or community service clubs that are located on Crown land or receive any financial assistance from the Government or a municipal council.

### ■ EDUCATION

which includes refusing to admit a student to an educational institution, setting unfair entry terms, denying or limiting access to benefits, expelling the student or subjecting the student to any other unfair treatment because of their pregnancy or parental or marital status.

### ■ EMPLOYMENT

which includes job applicants, employees and contract workers.

*Sharon was area manager of an engineering company responsible for negotiating large corporate contracts. After Sharon became pregnant with her second child, her employer proposed to demote her to bookkeeping, for far less pay and status than her previous position. When Sharon confronted her employer about the demotion she was informed that "the company's board did not believe that it was suitable for a pregnant woman to be representing the organisation."*

*Sharon may lodge a complaint with the Equal Opportunity Commission. At a conciliation conference, negotiated outcomes may include an undertaking to continue Sharon's employment at the same pay and status and to issue an apology.*

### ■ GOODS & SERVICES & DISPOSAL OF LAND

which includes refusing to supply a person with goods or services, supplying a person with goods or services on less favourable terms or subjecting a person to any other unfair treatment because of their pregnancy or parental or marital status. It does not matter whether the goods and services are provided for money or not.

### ■ SPORT

which includes refusing to select a person for a sporting team or excluding them from participating in a sporting activity.

### ■ PROTECTION OF HEALTH AND SAFETY

A person may discriminate against a woman on the basis of pregnancy in all the areas of public life, if the discrimination is reasonably necessary to protect the health or safety of any person (including the pregnant woman).

For example, if a doctor has stated that a pregnant woman should not stand for more than a certain number of hours per day, it is lawful to restructure that woman's work accordingly to accommodate her. However, dismissing a pregnant woman because of risks in the workplace may be against industrial relations law. An alternative position comparable in pay and status must be found and if this is not possible, paid leave may need to be given.



## DEALING WITH DISCRIMINATION

### Where is discrimination unlawful in Victoria?

Under the Victorian Equal Opportunity Act 1995, it is against the law to discriminate directly or indirectly against someone because of their:

- Age
- Carer status
- Disability
- Lawful sexual activity / sexual orientation
- Personal association with a person who could be discriminated against because of any of the characteristics listed here
- Physical features
- Political or Industrial activity or beliefs
- Pregnancy, Parental or Marital status
- Race
- Sex

or

- To sexually harass another person

It is unlawful to discriminate against someone on the basis of any of these personal characteristics or attributes or to sexually harass them in the areas of:

- Employment
- Goods and services and disposal of land
- Education
- Accommodation
- Clubs and club memberships
- Sport

### What can you do if you have been discriminated against?

The first step is to tell the person who is treating you unfairly that such discrimination is unlawful.

If you are unable to do so or if they still refuse to treat you fairly, you should contact the Victorian Equal Opportunity Commission for free and confidential advice about how to deal with the situation.

You can also lodge a formal complaint of discrimination with the Commission under the Victorian Equal Opportunity Act or federal anti-discrimination laws.

The complaint will be dealt with through the Commission's confidential, impartial and free complaints resolution service.

Most complaints are settled through conciliation, where you and the person who discriminated against you are brought together with a conciliator from the Commission to discuss the problem and try to work out a solution. This may include job reinstatement, an agreement to provide what was previously refused, an apology, policy changes or compensation.

If conciliation is not successful, you can ask to have the matter referred to the Victorian Civil and Administrative Tribunal or the federal Human Rights and Equal Opportunity Commission for a public hearing. The Tribunal has the power to hear evidence and to make an order to resolve the situation.

It is also against the law for anyone to hassle or "victimise" a person because they have lodged a complaint with the Commission.

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### How to contact the Victorian Equal Opportunity Commission

Level 3  
380 Lonsdale St  
Melbourne  
VIC 3000  
eoc@vicnet.net.au

**Enquiries line**  
(03) 9281 7100  
**Fax**  
(03) 9281 7171  
www.eoc.vic.gov.au

**Toll free country calls**  
1800 134 142  
**TTY**  
(03) 9281 7110

Free interpreters and Aboriginal Commission staff are available on request.