



SEX DISCRIMINATION

What is Sex Discrimination?

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

Discrimination on the basis of sex may be **direct** or **indirect**.

Direct discrimination on the basis of sex means treating a person of any sex less favourably than a person who is of a different sex, in the same or similar circumstances.

*Mike saw an advertisement for a job as a sales representative for a cosmetics company. When he telephoned to express his interest in the position the personnel manager said "sorry, we don't have any male reps and we like to keep it that way". The company is **directly** discriminating against Mike on the basis of his sex.*

Indirect discrimination happens when a requirement, condition or practice which does not appear to be unfair, in fact does discriminate against people of a particular sex.

*A factory decided that all employees who had worked continuously for the past 10 years would get a pay rise. It is likely that a higher proportion of women than men would miss out on the rise, as more women than men interrupt their working lives to have and care for children. This is **indirect** sex discrimination.*

Where is Sex Discrimination Unlawful?

It is unlawful to discriminate on the basis of a person's sex 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.

However, an educational authority which operates wholly or mainly for students of a particular sex may provide accommodation wholly or mainly for people of that sex.

■ 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.

However a club may limit a member's access to a benefit on the basis of sex if it is not practical for both sexes to enjoy the benefit at the same time and the same or equivalent benefit is provided separately to both sexes.

Margaret and Jenny were told that they were welcome to join a bowling club on Crown land as "associate members" but the club's rules restricted "full ordinary membership" to males. They may lodge a complaint with the Commission. Possible outcomes could include an apology and an agreement by the club to amend its rules to make them consistent with the law, thereby allowing women to be full club members.

■ 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 sex.

However, an educational authority which operates wholly or mainly for students of a particular sex may exclude people who are not of that particular sex.

■ EMPLOYMENT

which includes job applicants, employees and contract workers.

However, an employer may offer employment only to a person of a particular sex if:

- *they can most effectively provide welfare or support services for other people of the same sex.*
- *if it is a genuine occupational requirement that employees be of a particular sex. This may be for reasons of decency and privacy such as the fitting of clothes, entering lavatories or areas where people are in state of undress or conducting body searches.*
- *if they are required to live in communal accommodation not suitable for people of both sexes.*
- *if it is necessary to do so to maintain authenticity or credibility in dramatic, artistic, entertainment, photographic or modelling performances or work.*

Barbara applied to a bus company for a job as a bus driver. She had been a transport driver in the RAAF and had plenty of experience. The Bus company said that they would "give her a go" but doubted that she would be able to "hack the pace" and said that she would be paid less than the men until she "proved herself". Barbara may lodge a complaint with the Equal Opportunity Commission. At conciliation, possible outcomes could include an agreement by the employer to pay Barbara the same wage as her male counterparts.

■ 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 sex. It does not matter whether the goods and services are provided for money or not.

Jane was working full time and applied for a credit account with a department store. She was told that she could not have the account unless her husband acted as a guarantor. The store didn't impose the same requirement on men. After investigation and conciliation by the Commission the store changed its policy and Jane was given an account.

■ SPORT

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

However organisers of competitive sporting activities for people over 12 years of age may discriminate on the basis of sex if strength, stamina or physique is relevant.



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.

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.