

# Disability discrimination

> Know your rights

## What is disability discrimination?

Discrimination is treating someone unfavourably, or proposing to, because of a personal attribute protected by Victoria's *Equal Opportunity Act 2010*.

Discrimination can also happen if an unreasonable policy or practice is applied that can, or does, disadvantage someone because of a personal attribute. It can still be discrimination if the policy or practice is proposed; it doesn't have to be put into action.

Equal opportunity laws protect people from discrimination, sexual harassment, victimisation, and racial and religious vilification.

In Victoria it is against the law to discriminate against someone because of a disability.

Disability includes physical, mental or intellectual conditions and may be short term, long term or permanent. The law protects people who have had a disability in the past and those who may have a disability in the future.

Around one in five people in Victoria has a disability and most people will experience some kind of disability at some time in their lives. Disability discrimination can prevent people from participating in community life and enjoying other human rights.

### Example of discrimination

Dinesh breaks his arm while on a skiing holiday and has trouble returning to his job as a gardener. As well as needing to take time off for medical appointments, Dinesh finds that he can only carry out light tasks at work. Dinesh's boss tells him that he'll have to take unpaid leave until his arm is mended and he can return to work fully.

## Where discrimination can happen

Discrimination is against the law when it occurs in an area of public life covered by Victoria's equal opportunity laws. These are:

- accommodation, including access to public premises
- clubs
- education
- employment
- goods and services
- land sales and transfers
- local government
- sport.

In some circumstances there may be exceptions. Contact us for more information.

## **Are assistance dogs covered by a 'no pets' rule?**

No. It is against the law to refuse entry or accommodation to a person with an assistance dog. This includes taxis and public transport. It is also against the law to insist that the dog be kept somewhere else or to charge extra for the dog.

Assistance dogs are trained to assist people with any disability, not just those that assist people with hearing, vision or mobility impairments.

### **Examples of discrimination**

Stephen has epilepsy and his constant companion is Ruby, a specially trained seizure response dog. He visits a restaurant and is told that he can't bring Ruby inside and will have to sit at a table outdoors.

Penny has a disability and uses a wheelchair. She is excited about attending a trade fair organised by her council at a local community hall but is unable to go because the only way to enter the building is by a set of stairs.

## **Victimisation**

It is against the law to punish or threaten to punish someone because they have:

- asserted their rights under equal opportunity law
- made a complaint
- helped someone else make a complaint
- refused to do something because it would be discrimination, sexual harassment or victimisation.

The legal definition of victimisation is when someone "subjects or threatens to subject the other person to any detriment".

### **Example of victimisation**

Bernard is a construction worker who injures his back on the job. When he returns to work part time after taking two weeks off to recover, he is hassled by co-workers who accuse him of 'slacking off'.

Bernard makes a complaint under the Equal Opportunity Act. When Bernard's boss finds out about the complaint, he tells Bernard that there is no room on the crew for someone who can't fit in with the work culture, and tells him to finish up at the end of the week.

## **How should I respond to discrimination?**

Every person needs to make their own choices about how to respond to serious issues in the workplace or public life, but it's important to know that there are a range of services and agencies that can advise, support and help you make informed decisions about what to do next.

Even if you don't want to make a complaint, we can help.

If you have any questions about discrimination, sexual harassment, victimisation or vilification you can contact the Commission. We won't act on what you tell us unless you ask us to.

## **Make a complaint to the Commission**

If you think you have been discriminated against, sexually harassed, victimised or vilified, contact us. We can send you information about the complaint process. If we can't help you we will try to refer you to someone who can.

You can also make a complaint to us by sending us a letter or email or filling in our online complaint form. You can make a complaint in your preferred language or you can call us and we can help you write the complaint down. It does not cost anything to make a complaint to us and you do not need a lawyer to make a complaint.

The Commission will try to help you resolve your complaint, but we do not advocate for you or for the person or organisation you are complaining about.

When you lodge a complaint we will contact you to talk about your complaint and we may ask you for more information. We may talk to you about trying to resolve the complaint through conciliation and the outcome you want to achieve.

Generally, the Commission will contact the person or organisation you are complaining about, give them a copy of your complaint and ask for their comments. We will let you know what they have said in response to your complaint.

In some instances we may decide we cannot deal with your complaint. If this happens we will contact you and explain why.

In many cases we will help you and the person or organisation you are complaining about try to find a way to resolve the complaint by conciliation.

Conciliation can take place in a face-to-face meeting, by telephone conference or contact through the conciliator.

Complaints can be resolved in many different ways, for example by an apology, a change in policy, staff training or compensation.

## **About the Commission**

The Victorian Equal Opportunity and Human Rights Commission is an independent statutory body with responsibilities under three laws:

- *Equal Opportunity Act 2010*
- *Racial and Religious Tolerance Act 2001*
- *Charter of Human Rights and Responsibilities Act 2006.*

## **Commission services include:**

- Enquiry Line service available by telephone, email or webchat
- a free, fair and timely dispute resolution service
- information (and education) about equal opportunity, racial and religious vilification and the Charter of Human Rights and Responsibilities
- education, training and consultancy services.

Please contact us for more information.

Phone: 1300 292 153 or (03) 9032 3583

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Hearing impaired (TTY): 1300 289 621

Interpreters: 1300 152 494

Online complaint form: [www.humanrightscommission.vic.gov.au/complaints](http://www.humanrightscommission.vic.gov.au/complaints)

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