

When is discrimination illegal?

Discrimination is treating someone unfairly because of a personal characteristic, and, as a result, causing them disadvantage. In Victoria, the Equal Opportunity Act 1995 makes it against the law to discriminate against someone because of their actual or assumed personal characteristic, such as:

- **Age**
- **Breastfeeding**
- **Disability/impairment**
- **Gender identity**
- **Industrial activity**
- **Lawful sexual activity**
- **Marital status**
- **Parental status**
- **Physical features**
- **Political belief/activity**
- **Pregnancy**
- **Race**
- **Religious belief/activity**
- **Sex**
- **Sexual orientation**

It is now against the law for employers to treat their employees or contractors unfairly because they make reasonable requests and/or communicate concerns about their employment entitlements. This is known as 'Employment Activity'.

This means that if an employee makes a reasonable request about employment entitlements, employers cannot treat them unfairly or penalise them by:

- *cutting their hours or regular overtime*
- *denying them annual leave*
- *transferring them to undesirable duties*
- *not granting a promotion*
- *not providing them with access to services and training in the workplace*
- *terminating their employment*

It is important to note that this amendment does not compel an employer to provide the information requested. It does mean however, that an employer cannot treat an employee less favourably as a result of them asking for that information.

Making a complaint to the Human Rights and Equal Opportunity Commission

It does not cost anything to make a complaint to the Human Rights and Equal Opportunity Commission. Your complaint needs to be put in writing and should include the following:

- *what happened*
- *when it happened*
- *where it happened*
- *who was involved*
- *the names of anyone else who can say what happened.*

You can also lodge a complaint electronically through the Human Rights and Equal Opportunity Commission's web site (see Related Links).

The Human Rights and Equal Opportunity Commission then decides if your complaint comes under the Disability Discrimination Act (1992). If it does, the Human Rights and Equal Opportunity Commission will investigate the complaint. If they cannot deal with your complaint they will write to you and explain why. Investigation may include writing to the other people involved to get their side of the story. The Human Rights and Equal Opportunity Commission will then work with you and the other party to try to find a solution that everyone can agree with. This is called conciliation. If conciliation does not work, you can decide whether to take it further by taking your complaint to court.

To save time and hardship it is advisable to work towards an amicable resolution before lodging a formal complaint but remember; a light-hearted joke turns into discrimination when the receiver feels uncomfortable and offended. It is NEVER acceptable to discriminate or be discriminated against.

For further information contact our school counsellor or contact:

Victorian Equal Opportunity & Human Rights Commission

Level 3, 380 Lonsdale Street, Melbourne VIC 3000

Tel: (03) 9281 7111 or 1800 134 142 (toll free)

Fax: (03) 9281 7171

Email: information@veohrc.vic.gov.au