



## GENDER IDENTITY DISCRIMINATION and VILIFICATION

### What is discrimination based on gender identity?

It is treating you less favourably than someone else because you

- identify as a member of the opposite sex and seek to live as someone of the opposite sex, or
- are of indeterminate sex and you seek to live as a member of a particular sex.

Discrimination may be unlawful depending on the circumstances.

#### Examples

*You don't get a job because the employer says 'a transgender wouldn't fit in with the rest of the staff'.*

*You're told in a pub to 'use the other toilet' when it doesn't fit with your gender self-identity.*

The law that prohibits discrimination on the basis of gender identity is the Queensland *Anti-Discrimination Act 1991*.

### When and where can discrimination happen?

Unlawful discrimination on the basis of your gender identity can happen at work, school or college, at a public venue, in a shop or a restaurant, looking for accommodation, buying property, applying for credit, insurance or a loan, or dealing with tradespeople, businesses or state or local government.

### What can I do about it?

You could talk to the person or people involved. Tell them you object to what they are doing, and ask them to stop. Often, this is enough.

If the behaviour happened at work, ask your manager, union representative or

contact officer what you might do. If your workplace has a process for dealing with complaints, you could lodge a complaint with your employer.

You could also phone or visit one of our offices. Our staff can give you information about the law and explain how complaints are handled.

### How do I make a complaint?

Write down the details of what happened to you in a letter, get a complaint form from our website ([www.adcq.qld.gov.au](http://www.adcq.qld.gov.au)) or call one of our offices for a form.

Include:

- your name, address for service and phone number
- a description of what happened, when and where
- who your complaint is about and their contact details and
- any other useful information.

Your complaint must be lodged with the Commission within twelve months of the discrimination or vilification happening.

The Commission's service is free. However, you may have to pay for any legal or other advice you decide to get.

Your complaint can be in any language as we will use translators if we need to.

### What happens to my complaint?

Your complaint will be assessed to see if the conduct you describe may be illegal. If so, we may arrange a meeting with both you and the person or people you've complained about to discuss the issues and try to come to some

agreement. The Commission will not take sides or represent anyone.

If you can't agree, the complaint may be referred to the Anti-Discrimination Tribunal, which will hold a public hearing and make a decision based on the evidence.

### **What is vilification based on gender identity?**

Vilification is different from discrimination. Where discrimination is about unfair treatment, vilification is a public act that incites others to hate you or your group (or have serious contempt for, or severely ridicule you) because of your gender identity.

This sort of hatred can show up in a number of ways including through speech, leaflets, graffiti, gestures, posters or stickers, websites, abuse or media articles.

#### **Examples:**

*A transgendered person is sitting in the mall. She's approached by one member of a group who starts abusing and taunting her. When she doesn't respond he encourages his friends to join in the ridicule and harassment.*

*The transgendered community is holding a social function in a pub. A local troublemaker gets to know about the function and as people leave he stands outside the hotel with a group of friends shouting "You're a bunch of pedophiles – you should have been drowned at birth."*

**NOTE:** It is a criminal offence, if either you and/or your property are threatened with physical harm.

### **How can I tell if it's vilification?**

You'd need to show a few things to make out a complaint of vilification.

Did it happen publicly? In other words, apart from those involved, could other people see it, hear it or read it? If it happened in private, it's not vilification.

Could it incite hatred (serious contempt or severe ridicule) of you because of your gender identity? Or, how serious was it? Was it serious enough to have an impact on other people? If the act was fairly minor, or a light-hearted joke, it's not vilification.

Was it something that could be seen as free speech, and therefore legal? The law allows for free speech to be protected, and says that things like fair reports, discussions or debates or material used in parliament, courts, tribunals or other government inquiries are not vilification.

### **Can I make a complaint?**

Yes, you can make a complaint either as an individual or one can be made by a 'relevant entity'. This means organisations that promote the interests or welfare of transgender people can make a complaint to the Commission on your behalf.

### **What else do I need to know?**

The Commission runs information sessions and training courses about discrimination law. We also have brochures on a range of discrimination issues.