



IMPAIRMENT DISCRIMINATION

What is impairment discrimination?

Impairment or disability discrimination is treating you unfairly or badly because of your impairment. Discrimination such as this may be unlawful depending on the circumstances.

Examples: *You are refused a job as a sales person because you use callipers.*

You have a hearing impairment and your university lecturer says it's too much trouble to provide your lecture notes in a suitable format.

Unlawful discrimination can also happen in a less obvious way. Sometimes a rule or policy seems to treat everyone the same, but in fact, some people end up being treated less favourably.

Example: *You have a speech impairment and want to apply for a job, but the employer only conducts initial interviews by telephone.*

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

When and where can discrimination happen?

Discrimination on the basis of impairment can happen at work, school or college, in 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.

Because discrimination occurs most often in the workplace, employers should offer an equal opportunity to

everyone for job interviews, promotion, transfer or training. In other words, employers need to consider you on what you can do, not on what they assume you cannot do.

Is your employer responsible for what happens in the workplace?

Yes. Your employer, as well as the person or persons who discriminated against you, can be liable for what happened to you. This is called vicarious liability.

Employers need to take reasonable steps to ensure they protect their staff from discrimination and vilification, and make sure their workplaces are free of this type of behaviour.

This may include writing policy and making sure all employees, especially managers and supervisors, are trained in how to reduce or prevent discrimination from happening. Employers should also introduce an effective process for dealing with complaints.

Employers or organisations can't avoid their legal responsibility by saying they were not aware of discrimination in their workplace.

Are there any exceptions to the rule?

Yes. Discriminating against someone with an impairment is not always against the law.

Employers and people who work in education or provide services are expected to provide special services and facilities to people with an impairment. However, their failure to provide you with a special service or facility may not

be unlawful if it causes unjustifiable hardship.

Example: *A small shop owner cannot afford to build a special ramp to give you wheelchair access so you can occasionally buy goods.*

Can I make changes to the place I rent?

Yes, you can, provided you agree to a few conditions. First of all, you must get the owner's permission before you make any changes. You'll also need to pay for any changes you make and be able to return the place to its original condition before you leave.

Are guide dogs covered?

Yes. It's against the law for someone to refuse to rent a place to you, refuse you access to a café, or ask you to pay more because you have a hearing or guide dog. It is also an offence, punishable by a fine, for someone to separate you from your guide dog.

What can I do about discrimination?

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) 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 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 will 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 else do I need to know?

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

There is a federal *Disability Discrimination Act 1992*, which is administered by the Human Rights and Equal Opportunity Commission, phone 1300 656 419.