



## Is sex discrimination against the law?

Yes. In NSW many types of sex discrimination are against the law.

Sex discrimination is:

- **where you are harassed or treated unfairly because of your sex** — that is, because you're a woman or because you're a man;
- **where you are sexually harassed** — this includes such things as unwanted sexual comments or abuse, unwanted sexual suggestions, offensive gestures and unwanted sexual contact;
- **where you are treated unfairly or harassed because you are pregnant or you are breastfeeding;**
- **where a rule or policy that applies to everyone in fact disadvantages your sex more than the opposite sex, and it's not reasonable.**  
For example, it would be against the law for an employer to say that they want someone 180 cm tall to do a job — unless the job really needs someone that tall. This is because the height requirement means that fewer women would be able to apply for the position than men, as women are generally shorter than men; and
- **where you are treated unfairly or harassed because of the sex of any of your relatives, friends or associates.**

Our statistics show that it is mostly women who experience sex discrimination in NSW. However sex discrimination against men does sometimes happen and it is also against the law.

Differing dress standards for men and women may be unlawful sex discrimination – for example, if women are allowed to wear earrings in a workplace but men are not, and there is no job-related reason why the men shouldn't wear earrings.

## Where is sex discrimination against the law?

Sex discrimination is against the law in the following situations:

- **in employment** — when you apply for a job, at any time during your employment, or when you leave a job;
- **when you get, or try to get, most types of goods or services** — for example, from shops, pubs and entertainment places, banks, lawyers, government departments, doctors and hospitals;
- **when you rent, or try to rent, accommodation** — for example, a unit, house, commercial premises, hotel or motel room;
- **when you apply to get into, or are studying in any State education institution** — including a government school, college, TAFE, or university.

In the case of independent (private) educational institutions, sexual harassment is against the law but sex discrimination is not against the law; and

- **when you try to enter, join or get services from a registered club** — this includes any club that sells alcohol or has gambling machines.

**For more detailed information on pregnancy, breastfeeding and carers' responsibilities discrimination, and sexual harassment**

Refer to our website at [www.lawlink.nsw.gov.au/adb](http://www.lawlink.nsw.gov.au/adb) or ask for our factsheets on

pregnancy discrimination

breastfeeding discrimination

carers' responsibilities discrimination

harassment and sexual harassment

## Victimisation is also against the law

It is against the law for anyone to hassle or victimise you or treat you unfairly because:

- you have complained to your employer or another person about sex discrimination;
- you have complained to the Anti-Discrimination Board; or
- you have supported someone with a sex discrimination complaint, or acted as a witness in a sex discrimination case.

You can lodge a separate complaint of victimisation with the Anti-Discrimination Board if you have been victimised because of a complaint relating to sex discrimination.

## What can I do if one of these things happens to me?

Read through this factsheet to check that what's happened seems to be against the law. If you aren't sure if it's against the law, phone us to check on your rights.

If what's happened seems to be against the law, you can try talking to the person or organisation that you think is discriminating against or harassing you. The organisation may have a policy on these issues and/or a process in place to deal with grievances, and you may be able to address your problem through these channels. You can also get help from other sources such as trade unions.

If talking to the person or organisation doesn't work, or isn't appropriate, you may decide to make a complaint to the Anti-Discrimination Board. It won't cost you any money for the Board's staff to help you, and you don't need a lawyer.

## Making a complaint

If you want to make a complaint, it must be in writing and it is best if it is signed by you. You can either send us a completed discrimination complaints form, or write a letter to the President of the Anti-Discrimination Board, explaining what happened and why you think you have been discriminated against because of your sex.

You can write to us in any language, or in Braille. If you need assistance to make a written complaint, phone the Board and we can help you or refer you to an organisation that can help you.

We also accept complaints on your behalf from your lawyer, or organisations such as unions and other representative bodies. However the complaint must make it clear that you agree with the complaint being made and you must be named in the complaint. In some circumstances you may also be required to show that you consent to the complaint being made on your behalf.

If you want to make a complaint on behalf of a child or a person with a disability, contact the Board for more information.

For us to be able to accept a complaint, the events involving unfair treatment because of your sex must have occurred in the twelve months before the complaint is received by the Board. If you make a complaint about events that occurred more than twelve months before you lodge your complaint, the Board may refuse to investigate your complaint.

If your problem is urgent (for example, you think you are about to lose your job), tell us this in your letter and we will get back to you in time to do what we can to help.

## What happens after you make a complaint?

We have the legal power to investigate your complaint, and if it's against the law, to try to conciliate it. This means that we will try to help you and the person or organisation you are complaining about reach a private settlement that you both agree on. The Board is impartial in this process and does not take sides.

Any settlement will depend on the circumstances of your case, and on what you and the other parties are willing to offer and accept. It could be an apology, financial compensation, transfer to another position, the person who discriminated against you being reprimanded, awareness training about sex discrimination at your workplace, access to facilities you were previously denied, and so on.

We treat all complaints confidentially, but we will need to inform the organisation or person you are complaining about of the complaint. We will not release information about your complaint to anyone else except with your permission or if we are required to by law.

Most complaints are conciliated. If yours isn't, you may go to the Equal Opportunity Division of the Administrative Decisions Tribunal which is like a court. It provides a legal judgment that must be followed. However, very few cases need to go to the Tribunal and in some circumstances it's possible to ask the Tribunal to keep your details confidential.

### For more detailed information on making a complaint

refer to our website at [www.lawlink.nsw.gov.au/adb](http://www.lawlink.nsw.gov.au/adb) or ask for our factsheet on *Complaining to the Anti-Discrimination Board*.

## Examples of sex discrimination complaints we have handled

**A** woman who had acted as a club's manager was removed from the position when the club directors decided to fill it permanently, as they wanted a man for the job. After she complained to us, the club asked her to return to the position and compensated her for lost wages.

**A** female security guard was dismissed after complaining about being harassed by her supervisor. In conciliation the company agreed to pay her substantial compensation, give her a good reference and remove false records from her personnel file that said her work performance was poor.

**A** woman was refused an interview for a driver's position with a minibus company — they "didn't think she'd fit in" because she was female. When we talked with the company they offered her an apology, disciplined the person responsible and stated that they were prepared to consider her immediately for either a driver's or a telephonist's position.

**A** club member complained that she was refused access to the club's pool and snooker tables because they were for men only and "women playing pool is a joke". Our discussions with the club led to an apology plus an undertaking that the club would tell its staff and place prominent notices around the club stating that all facilities and amenities must be fairly available to all members, whether male or female.

**Three** men were refused entry to a bar and were told that the management did not want to admit any unaccompanied men. At a conciliation conference, the manager of the bar offered each of them a written apology, a number of free meals and a party including food, drinks and entertainment for the men and their guests.

## **The Anti-Discrimination Board of NSW**

(open weekdays 9am-4.30pm)

### **Sydney**

Level 4

175 Castlereagh Street

Sydney NSW 2000

PO Box A2122

Sydney South NSW 1235

Phone (02) 9268 5555

Fax (02) 9268 5500

TTY (02) 9268 5522

### **Wollongong**

84 Crown St

Wollongong NSW 2500

PO Box 67

Wollongong NSW 2520

Phone (02)4224 9960

Fax (02) 4224 9961

TTY (02) 4224 9967

### **Newcastle**

Level 1

414 Hunter St

Newcastle West 2302

Phone (02) 4926 4300

Fax (02) 4926 1376

TTY (02) 4929 1489

### **Enquiries**

(02) 9268 5544

### **Employers Advisory Service**

(02) 9268 5544

### **Toll free number**

1800 670 812

(if you are calling from rural or regional NSW)

### **Website**

[www.lawlink.nsw.gov.au/adb](http://www.lawlink.nsw.gov.au/adb)