

Disability discrimination

Anyone can talk to a lawyer for free at Tasmania Legal Aid.

To get free legal information call 1300 366 611, drop into our Hobart or Launceston office (no appointment necessary) or use the Legal Talk chat function on our website. We are open Monday to Friday, 9am to 5pm.

A lawyer can listen to your story and help identify the next steps you can take.

People with disability have the same rights as everyone else in the community. Disability discrimination is prohibited both under State law and Federal law.

What is discrimination?

Discrimination can be direct or indirect.

Direct discrimination occurs when a person with a disability is treated less favourably than a person who does not have a disability. This occurs if a person is discriminated against in the following areas:

- employment
- education and training
- provision of facilities, goods or services
- access to public premises
- accommodation
- buying land
- membership and activities of clubs
- the administration of Commonwealth Government laws.

Discrimination does not always mean that a person or organisation has deliberately set out to harass or exclude a person with a disability. Indirect discrimination occurs when people do not consider the needs of people with disabilities because they have little or no knowledge of those needs. This is also prohibited, and where reasonable, the person or organisation that has overlooked the needs of people with disabilities may be ordered to make changes to ensure that everyone can participate. For example, buildings that have steps, but no ramp exclude people who use wheelchairs. In situations such as this, the owner of the building may have to install a ramp.

What does the law say about disability discrimination?

People with disabilities have the same rights as everyone else in the community. Disability discrimination is prohibited both under State law (in the [Anti-Discrimination Act 1998](#)) and Federal law ([Disability Discrimination Act 1992 \(Cth\)](#)).

Disability discrimination legislation aims to prevent discrimination against people who have physical, intellectual, psychiatric, sensory, neurological, or learning disabilities, physical disfigurement or disabilities that arise from a disease. The law also aims to prevent discrimination against families, friends and associates of people who have disabilities.

When can someone discriminate?

Sometimes it is lawful to discriminate against a person with a disability. The following areas are examples of this:

- competitive sporting activities

- insurance and superannuation policies
- employment, if the person is unable to carry out the inherent requirements of the employment, or in order to do the job would require services or facilities not reasonably required by a person without a disability and which would impose unjustifiable hardship on the employer
- employment in the Defence Forces in combat duty or peacekeeping services
- if the disability is an infectious disease and it is reasonably necessary to discriminate in order to protect public health
- in access to public places and the provision of goods and services, if the provision of those things would cause unjustifiable hardship.

How do I make a complaint?

If you believe that you have been discriminated against because of a disability you should talk with [Equal Opportunity Tasmania](#) (previously known as the Office of the Anti-Discrimination Commissioner).

If the discrimination happened in a Commonwealth building, while utilising a Commonwealth service or if a person is employed, or seeking employment, with a Commonwealth Department then the complaint should be directed to the [Australian Human Rights Commission](#).

The Commissions investigate complaints and help parties to reach a settlement of the complaint by conciliation, if possible.

If a complaint cannot be resolved through conciliation, the Commissioners may refer the matter on to the [Anti-Discrimination Tribunal](#) or the [Australian Human Rights Commission](#).

You can get help with drafting and lodging your complaint from the [Disability Discrimination Advocate](#).

Where can I find more information?

- Equal Opportunity Tasmania <https://equalopportunity.tas.gov.au/>
- Australian Human Rights Commission <https://humanrights.gov.au/>
- Anti-discrimination Tribunal https://www.magistratescourt.tas.gov.au/for_lawyers/circulars/circulars_folder/2006_no_3_-_anti-discrimination_tribunal_-_charges_for_administrative_services

This is written for people who live in or who are affected by the laws of Tasmania, Australia. The law changes all the time – this information is not legal advice. If you have a legal problem, you should talk to a lawyer before making a decision about what to do.