

FACT SHEET:

Relationship status discrimination

The *Anti-Discrimination Act 1991* makes it unlawful to discriminate against a person because of their relationship status.

What is relationship status discrimination?

Relationship status means whether a person is:

- single; or
- married; or
- in a de facto relationship (that is, living together but not married); or
- in a civil partnership (under the Civil Partnerships Act 2011); or
- separated or divorced; or
- widowed.

Discrimination can be direct or indirect. Direct discrimination is treating a person less favourably because of their relationships status than someone who has a different relationship status, in similar circumstances.

For example, a couple were refused an application to rent a property together because they weren't married.

Indirect discrimination may be less obvious. Sometimes a rule or policy seems to treat everyone the same, but in fact, some people end up being treated less favourably. Indirect discrimination happens when there is an unreasonable requirement that people with a certain attribute (or characteristic) would have difficulty complying with, compared to others without that attribute.

For example, a bank will not lend money to someone who has not lived at the same address for a period of time. A recently divorced, separated or widowed person might not be able to comply with this term, even though they meet the financial criteria to service the loan.

It is also unlawful to discriminate against a person because of their association with a person identified on the basis of their relationship status - such as a friend, family member or co-worker.

For example, a landlord will not rent a home to you because your flatmate is a person who has recently separated from their partner.

It doesn't matter if the person doesn't mean to discriminate, or whether they think they are being discriminatory or not. It also doesn't matter if their beliefs or assumptions about the person or people they are discriminating against are correct or not. Under the Act, someone's motive for discriminating is irrelevant.

If you have experienced any of these types of discrimination, you may be able to lodge a complaint with us at the Commission.

However, not all treatment that might seem unfair is unlawful under the Act (see the exemptions below).

When and where is relationship status discrimination unlawful?

Discrimination on the basis of relationship status is unlawful in all aspects of work, including recruitment, terms and conditions on which a job is offered, employment benefits, training, transfers, promotion and dismissal.

It is also unlawful when a person is:

- a customer in a shop or restaurant;
- a student at school or university (if it is by the educator);
- looking for accommodation;
- applying for credit, insurance or a loan; or
- when dealing with tradespeople, businesses or State or local government.

Examples of relationship status discrimination

A married woman was unsuccessful in her application for a job involving interstate and overseas travel because the company said she wouldn't be able to travel as she'd be leaving her husband at home alone.

A woman who worked on a casual basis noticed that she was given fewer shifts but other casual workers shifts hadn't changed. The manager told her that she had fewer shifts because she has a husband to support her.

Identity of spouse or partner

Most commonly, relationship status is about the fact that the person is in a relationship, not the identity of the person they are in a relationship with.

However, relationship status may include a characteristic that a person who is in a relationship is generally considered to have. This may create a link where the identity of the person they are in a relationship with is relevant. Less favourable treatment because of the identity of the person they are in a relationship with may be unlawful.

Examples of this include:

A woman was refused registration as a horse trainer because her husband had been involved in a horse substition scandal and 'warned off' all racecourses. There was a general imputation that married women were susceptible to corruption by their husbands.

A woman's membership of a golf club was terminated when her husband was expelled from the club. There was a general imputation that members who are married to members who are expelled deserve to be expelled.

When and where is different treatment okay?

Not all treatment that might seem unfair is against the law. The Act lists some exemptions that allow conduct that would otherwise be discriminatory. Whether or not an exemption applies will depend on individual circumstances.

The following exemptions apply specifically to relationship status.

Workers to be a married, de facto or civil partnership couple: An employer may recruit a married, de facto or civil partner couple where the work is for two positions and the workers are required to live in accommodation supplied by the employer.

For example, a employer advertising for a couple to manage a country hotel where they need to live in accommodation supplied with the job.

Provision of assisted reproductive services: People who provide assisted reproductive technology services (in-vitro fertilisation, artificial insemination, embryo transfer, or other services relating to artificial fertilisation) may discriminate on the basis of sexuality or relationship status – for example, they may refuse to provide services to lesbian or gay couples, or to single or unmarried people.

