

FACT SHEET:

Discrimination on the basis of lawful sexual activity

The *Anti-Discrimination Act 1991* makes it unlawful to discriminate against a person because of their lawful sexual activity.

What is discrimination on the basis of lawful sexual activity?

Under the *Anti-Discrimination Act 1991*, lawful sexual activity means someone's status as a lawful sex worker.

Generally speaking, sex work is lawful in Queensland if a person:

- works as a sole operator visiting clients, or works out of their own home, and doesn't work with or employ any staff, except for licensed security guards, or
- works in a licensed brothel.

Discrimination on the basis of lawful sexual activity is treating a person less favourably because they are a lawful sex worker, than someone who is not a lawful sex worker, in similar circumstances.

For example, a bank manager refused a loan to a sex worker to buy a unit, even though he met the financial and other criteria for the loan.

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

For example, a school refused to enrol a child because the child's mother works as a self-employed sex worker.

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 discrimination under the Act (see the exemptions below).

When and where is discrimination on the basis of lawful sexual activity unlawful?

Discrimination on the basis of lawful sexual activity 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 discrimination on the basis of lawful sexual activity

A sex worker who tried to purchase goods from a grocery store was refused service and derogatory comments were made about sex workers.

A student's tertiary enrolment was cancelled when it became known that she was a lawful sexual worker.

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.

There is a specific exemption relating to lawful sex work and accommodation. An accommodation provider may refuse to supply accommodation to someone if they believe they intend to use the accommodation for sex work. Someone using or planning to use accommodation for sex work can also be evicted or otherwise treated unfavourably (for example, charged a higher rate for cleaning). The exemption only applies if the property is being used or will be used for sex work, not solely on the basis that the occupant is a sex worker themselves.