

FACT SHEET:

Other contraventions of the Queensland *Anti-Discrimination Act 1991*

As well as discrimination, sexual harassment, victimisation and vilification, the *Anti-Discrimination Act 1991* also makes the following conduct unlawful:

- **requesting or encouraging a contravention of the Act;**
- **requesting unnecessary information; and**
- **discriminatory advertising.**

Requesting or encouraging a contravention of the Act

It is unlawful for someone to request or encourage another person to contravene the Act.

If the person who was asked or encouraged to contravene the Act then did what they were asked or encouraged to do, both people are liable. A complaint could be made against either person or both of them.

For example, the owner of a rental property instructs the property manager not to rent it to Aboriginal people. A complaint could be made against the owner for giving that instruction.

If the property manager does discriminate by refusing to rent the property to an Aboriginal person, a complaint of discrimination could be made against both the owner and the manager, or either of them.

Requesting unnecessary information

Asking for information which can be used to discriminate against a person is unlawful, unless it is genuinely required for a non-discriminatory reason.

This applies whether the request is made verbally or in writing.

For example, an employer who asks applicants for all jobs whether they have any impairments could have a complaint made against them.

There is an exemption to this under the Act, which means it is not unlawful to request information that is reasonably required for a purpose that does not involve discrimination.

For example, an employer may ask applicants for a job involving heavy lifting whether they have any physical condition that indicates they should not do that work.

A private employment agent is required under law to keep a register of people looking for work, and the register is to include the name, sex and gender of the person. If the information is sought for the purpose of the register only, and does not involve discrimination, the exception will apply.

Requests to supply information to comply with a court or tribunal order are exempted from this provision.

For example, a court ordering an organisation to provide the names, ages and sex of all its workers in connection with a matter which is before it.

Discriminatory advertising

It is against the law to publish or display an advertisement that shows an intention to contravene the *Anti-Discrimination Act*. This includes advertisements on websites, television, radio, online job sites, newspapers, billboards, catalogues and leaflets.

For example, a job advertisement for an attractive young woman to fill a receptionist position would be discriminatory advertising.

However, under the Act, it is lawful for employers to advertise for a worker under 21 years of age, and advertise that youth wages apply to the position.

There are further exemptions for job advertisements under the Act. An employer can lawfully advertise a position for a restricted pool of applicants if the reason for doing so is:

- **an equal opportunity measure** (such as advertising for a cadetship in the construction industry for female engineering students);
- **a welfare measure** (such as a mining company advertising an employment program which is intended to increase employment and to improve employment conditions for local Aboriginal people);
- **because of a genuine occupational requirement** (such as considering only women applicants for positions involving body searches of women).

When the pool of candidates for a position is to be restricted because of an equal opportunity or welfare measure, it is advisable to include a statement in the advertisement such as:

Company X considers this advertisement to be an equal opportunity measure under section 105 of the *Anti-Discrimination Act*; or

Company X considers this advertisement to be a welfare measure under section 104 of the *Anti-Discrimination Act*; or

Company X considers being a female is a genuine occupational requirement for the position as envisaged under section 25 of the *Anti-Discrimination Act*.

Such a statement indicates that should a complaint arise in relation to advertising of the position, the company would rely on the exemption.

Complaints

Complaints about these matters can be made to us at the Queensland Human Rights Commission.