

FACT SHEET:

Political belief or activity discrimination

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

What is political belief or activity discrimination?

While political belief or activity is not defined in the Act, case law indicates that it means beliefs or activities relating to the policies, structure, composition, roles, obligations, purposes or activities of government. Government includes the Commonwealth, State and local governments.

Discrimination on the basis of political belief or activity can be direct or indirect. Direct discrimination is treating a person less favourably because of their political belief or activity, or because they hold different political beliefs, than someone without the political belief or activity or different political beliefs would be treated in similar circumstances.

For example, a hotel manager refused to allow a group to hold a meeting at the hotel because he did not agree with the political views of the group.

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) have difficulty complying with, compared to others without that attribute.

For example, your employer requires you to sign a petition to change a particular law that is to be presented to the State government, however you don't agree with the petition.

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

For example, a man is the best qualified applicant for a job with a local small business, but is unsuccessful because his wife is the local MP and the business owner doesn't agree with her views.

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 political belief or activity discrimination unlawful?

Discrimination on the basis of political belief or 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 political belief or activity

At a federal election, a woman who works as a dental technician handed out how to vote cards for a local candidate. Her boss saw her at the polling booth, and told her that she should look for another job, as he didn't want someone of that political persuasion working for him.

A group of people wanted to hire a community hall to conduct a public meeting to protest about a particular government policy. They were refused hire of the hall because the manager of the hall disagreed with their views.

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.

Local government members: A member of a local authority may discriminate against another member on the basis of political belief or activity in the performance of official functions.

Genuine occupation requirements: A person may impose a genuine occupational requirement for position.

For example, a position as adviser to a political party or a worker in the office of a Member of Parliament could be restricted to members of that particular political party.