

# Religious Conviction Discrimination

It is unlawful under the *Equal Opportunity Act 1984* (the Act) to discriminate against a person because of their religious conviction.



*Equal Opportunity Commission*

WESTERN AUSTRALIA



## Direct religious conviction discrimination

Direct discrimination takes place when a person is treated less favourably than another person because of their religious conviction, in the same or similar circumstances, and in one of the areas of public life covered by the Act.

## Indirect religious conviction discrimination

Indirect religious conviction discrimination is when an apparently neutral rule has a negative effect on considerably more people of a particular religious conviction compared to people without that attribute and the rule is unreasonable in the circumstances.

## Where does the protection apply?

Under the Act it is unlawful to discriminate against a person because of their religious conviction in certain areas of public life, including:

- Work
- Education
- Provision of goods, services and facilities
- Accommodation
- Clubs
- Application forms.

## Responsibilities

Organisations must ensure they provide a working environment and services that are free from religious conviction discrimination and they must take all reasonable steps to prevent it from happening or they may be held responsible for their employees' actions.

A person causing, instructing, inducing, helping or permitting another person to do something unlawful is the same as doing it, for the purpose of the Act.

## Making a complaint

A person who believes they have been discriminated against because of their religious conviction can lodge a complaint with the Western Australian Equal Opportunity Commissioner (the Commissioner). The onus of proof lies with the person making the complaint.

The incident or incidents in the complaint must have occurred within the 12 months previous to the date you lodge your complaint.

In some circumstances the Commissioner may decide that there is good reason, or good cause, to include incidents that occurred more than 12 months before the complaint is lodged.

The Commissioner for Equal Opportunity provides information about the Act, investigates and attempts to conciliate complaints, conducts community education and training and develops programs to promote equal opportunity.

### Examples of religious conviction discrimination

A Jewish prisoner complained that kosher food was not available to him at every meal time..

oOo

A public transport worker who was a Seventh Day Adventist complained he was indirectly discriminated against when he was rostered to work on Saturdays, his Sabbath.

#### Disclaimer

The material in this brochure is not intended to be legal advice. The Commissioner expressly disclaims any liability in respect to anything done or not done to any person in reliance upon any of the contents of this publication.

The Government of Western Australia

[www.wa.gov.au](http://www.wa.gov.au)

March 2022

### Exceptions

There are some instances where it is not unlawful to discriminate against a person because of their religious conviction, and these exceptions include:

- Domestic workers in private households
- Employers with less than six employees
- Accommodation provided by a religious body
- Accommodation in private households of less than five people
- Partnerships of less than six people
- Orders of a court or the State Administrative Tribunal
- The provision of charitable benefits
- Voluntary bodies – admissions and benefits
- Establishments providing accommodation for aged people
- The ordination of priests or ministers of religion
- Employment, education or training by a religious educational authority that discriminates in good faith in order to adhere to its religious teachings
- Employment in a hospital or where a health related service is provided, where the employer is a religious body and duties relate to any religious observance or practice

If an individual or organisation relies upon an exception under the Act when a complaint is made against them, they must justify the use of that exception to the Commissioner for Equal Opportunity.

## How to contact the Commission

### Telephone

General enquiries: 9216 3900  
Training courses: 9216 3927  
Country callers: 1800 198 149

### Email

[eoc@eoc.wa.gov.au](mailto:eoc@eoc.wa.gov.au)

### Website

[www.eoc.wa.gov.au](http://www.eoc.wa.gov.au)



Interpreter service: 13 14 50

© Commissioner for Equal Opportunity