



BREASTFEEDING DISCRIMINATION

**Breastfeeding is natural.
Discrimination is not.**

Equal Opportunity Tasmania

(the office of the Anti-Discrimination Commissioner)

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Celebrating Difference
Embracing Equality



BREASTFEEDING DISCRIMINATION

It is breastfeeding discrimination when a woman is treated unfairly, or is denied access to any service or the same opportunities as others, because she is breastfeeding her child.

A mother has the right to breastfeed her baby when and where her baby needs to be fed. A hungry baby should not be expected to wait and no mother should be forced to ignore the needs of her baby. Requiring a mum to breastfeed her baby in a toilet or a baby-change facility is a form of discrimination. Asking a breastfeeding woman to leave a restaurant, bar, cinema or other public place or service is also against the law.

It is also discrimination not to accommodate the needs of a mother who wishes to express milk for her baby. At work, for example, breastfeeding mothers should be allowed to take regular lactation breaks, have a suitable private area in which to express milk, and somewhere clean and hygienic for the milk to be stored.

In what situations is breastfeeding discrimination against the law?

To be against the law, breastfeeding discrimination must be related to one of these places or activities:

- Work – whether the work is paid or voluntary
- Training or studying – for example at school, TAFE or university, or workplace training
- Providing or accessing facilities or services
- Buying or selling goods
- Club membership or club-related activities
- Hotels and pubs
- Housing and accommodation – including short-term accommodation such as a hotel or hostel
- Office and other business premises
- The design or implementation of state laws or programs
- Making or implementing industrial awards, enterprise agreements or industrial agreements

Other unlawful behaviour

It is also against the law to offend, humiliate, intimidate, insult or ridicule a woman because she is breastfeeding (see separate brochure: *Offensive behaviour*).

Exceptions to the law

In certain circumstances discrimination on the basis of breastfeeding is permitted. For example, it is not against the law to refuse to provide dedicated facilities for breastfeeding mothers if providing the space and facilities would impose unjustifiable hardship. In determining whether this exception applied, the person or organisation would have to be able to show it had considered options for providing space and facilities in consultation with breastfeeding mothers, and done everything else it could to meet their needs. (For information about how exceptions work under the law, see separate brochure: *Discrimination – exceptions to the rules*).

Exemptions

If you think there is a valid reason for doing something that might be discriminatory on the basis of breastfeeding, you may apply to the Anti-Discrimination Commissioner for an exemption for that activity (see separate brochure: *Discrimination law – should you be exempt?*).

Do you feel you have been discriminated against because you are breastfeeding?

If you want to find out more or make a complaint, contact our office. This service is free. We cannot give legal advice, but we can explain how the law works and what it covers. We can also help with writing down a complaint.

The law in action

Ellena is back at work after having her second child. She is breastfeeding her baby and expresses milk during her scheduled breaks at work. She safely stores the bottles in the fridge. Other workers in her area also use the fridge. One of Ellena's colleagues, Vincent, tells her he doesn't want the baby's milk in the same fridge as the milk he uses in his coffee, makes comments to others about mixing them up, and complains to his boss about it. Ellena feels humiliated and insulted by Vincent's behaviour and decides to make a complaint to the Anti-Discrimination Commissioner about offensive conduct on the basis of breastfeeding.

Phuong goes to a restaurant for her birthday. During dinner she needs to breastfeed her baby and begins to do so. The owner of the restaurant asks her to breastfeed outside, away from other diners. There is no seating or safe place to breastfeed outside. Phuong is very upset by this and decides to make a complaint of discrimination on the basis of breastfeeding.