

# INTERSEX VARIATIONS OF SEX CHARACTERISTICS DISCRIMINATION

Body diversity is normal.

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Celebrating Difference  
Embracing Equality

# INTERSEX VARIATIONS OF SEX CHARACTERISTICS DISCRIMINATION

Some people are born with intersex variations of sex characteristics that don't fit medical norms for male or female bodies. People can have variations in physical, hormonal or genetic features relating to sex, including genitalia and other sexual and reproductive anatomy, chromosomes, genes, hormones and secondary sex characteristics.

It is discrimination if a person is treated unfairly, or for them to be denied the same opportunities as others, because they have intersex variations of sex characteristics.

Relatives, friends and co-workers sometimes experience discrimination because of their relationship with a person with intersex variations of sex characteristics (or thought to be). The law protects them too.

## In what situations is discrimination on the basis of intersex variations of sex characteristics against the law?

To be against the law, discrimination on the basis of intersex variations of sex characteristics 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 person because they have intersex variations of sex characteristics, or to publicly incite hatred, serious contempt or severe ridicule on the basis of intersex variations of sex characteristics (see separate brochures: *Offensive behaviour* and *Inciting others*).

## Exceptions to the law

There are no specific exceptions (defences) to discrimination on the basis of a person's intersex variations of sex characteristics under the Tasmanian *Anti-Discrimination Act 1998*. There are general exceptions that may apply. For example, recruiting only people who have intersex variations of sex characteristics to counsel young people who have intersex variations of sex characteristics is likely to be allowed.

## Exemptions

If you think there is a valid reason for doing something that might be discriminatory on the basis of a person's intersex variations of sex characteristics, 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 on the basis of your intersex variations of sex characteristics?

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

Cindy was asked to complete a form to take part in a local bushwalking club event. The form asked applicants for details about their sex, offering the choice of male or female. Cindy felt uncomfortable as neither option was truthful to who she is or reflected her intersex variations of sex characteristics. The failure to include a non-binary classification such as X may be intersex discrimination.

Marisa and Geoff welcome their new child, Chris. Following the birth they are advised Chris has intersex variations of sex characteristics. Marisa and Geoff are comfortable Chris will make decisions about gender and any treatment when Chris is old enough. Staff at the hospital, however, pressure Marisa and Geoff to agree to immediate 'normalising' surgery. Marisa and Geoff are concerned they are being coerced into making a decision and decide to make a complaint of discrimination.