

# INTERSEX DISCRIMINATION

Body diversity is normal.  
Respect intersex rights.

**Equal Opportunity Tasmania**

(the office of the Anti-Discrimination Commissioner)

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Celebrating Difference  
Embracing Equality

# INTERSEX DISCRIMINATION

Some people are born with physical, hormonal or genetic features that mean they are physically neither wholly male nor female, or a combination of both male and female. They are intersex. A number of intersex variations exist. Many people do not become aware they are intersex until later in life. Others experience stigma and pain from a very early age from invasive medical intervention aimed at making their body 'conform' to one or other sex.

It is discrimination on the basis of a person's intersex status to treat them unfairly, or for them to be denied the same opportunities as others, because they have intersex variations. It does not matter what sex they were designated at birth or whether they have had any medical procedures associated with being intersex.

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

## In what situations is intersex discrimination against the law?

To be against the law, intersex 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 person because they are intersex (see separate brochure: *Offensive behaviour*).

## Exceptions to the law

There are no specific exceptions to discrimination on the basis of a person's intersex status being against the law. In certain circumstances, discrimination on the basis of intersex status may be allowed. For example, recruiting only people who are intersex to counsel young intersex people is likely to be allowed under Tasmanian law.

## Exemptions

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

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

Andrea was born with Complete Androgen Insensitivity Syndrome. After rumours circulated at her workplace that she was 'different', some people started publicly calling her a 'hermaphrodite'. Andrea found the behaviour invasive and offensive, and approached her supervisor asking him to intervene. He told her people were 'naturally curious' and the best approach was to tell everyone 'all about it'. Andrea was not comfortable with this approach. This is intersex discrimination and Andrea could make a formal complaint.

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 variation. 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 an intersex variation. Marisa and Geoff are comfortable Chris will make his/her own decisions about gender and any treatment when she/he 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.