



LAWFUL SEXUAL ACTIVITY DISCRIMINATION

What happens in the
bedroom stays in the
bedroom.

Equal Opportunity Tasmania

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Celebrating Difference
Embracing Equality

LAWFUL SEXUAL ACTIVITY DISCRIMINATION

It is discrimination on the basis of lawful sexual activity when a person is treated unfairly, or is denied the same opportunities as others, because of their involvement in lawful sexual activity or because someone believes they are engaged in sexual activity that is lawful but do not approve of it.

'Lawful sexual activity' refers to any form of sexual activity that is legal in Tasmania, including legal prostitution. The sex or gender of those involved is irrelevant.

Discrimination law does not protect against discrimination because a person has engaged in sexual activity that is criminal. Criminal sexual activity includes, for example, unlawful sexual activity involving children, sexual assault and certain types of paid sex work. Sexual activities that are illegal are not protected, regardless of a person's gender or sexual orientation.

In what situations is lawful sexual activity discrimination against the law?

To be against the law, the 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 of their engagement in lawful sexual activity, or to publicly incite hatred, serious contempt or severe ridicule on that basis (see separate brochures: *Offensive behaviour* and *Inciting others*).

Exceptions to the law

In certain circumstances discrimination on the basis of lawful sexual activity is allowed. For example, a program aimed at providing health services to sex workers who do lawful sex work would not be considered discriminatory. (To understand 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 lawful sexual activity, 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 lawful sexual activity?

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

Brad is a self-employed sex worker who wants to buy an apartment. The sex work Brad does is lawful. He earns a steady income and is more than able to make the repayments. His bank refuses him a loan because of his occupation. Brad contacts us to make a complaint of discrimination on the basis of lawful sexual activity in relation to the provision of services.

Kristy is a lawfully employed sex worker who wants to enrol her child in a local school. At the first interview with the school, Kristy tells them about her work. She is told the school would not be a suitable place for her child. Kristy believes the decision to refuse her child's enrolment is based on her employment. She decides to make a complaint of discrimination on the basis of lawful sexual activity in connection with education.